

2013-11-14

SERVING CANADIANS
AU SERVICE DES CANADIENS

**DEPARTMENT OF JUSTICE
CANADA**
**MINISTÈRE DE LA JUSTICE
CANADA**

Decision Writing
Presentation to the Ministerial Relief Unit,
CBSA

Department of Justice, CBSA LSU
November 14, 2013

 Department of Justice Canada / Ministère de la Justice Canada

Canada

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What we will cover today

- Context: Some principles relating to judicial review
- Focus: Decision-writing as persuasive story-telling
- Discussion: Examples and questions

 Department of Justice Canada / Ministère de la Justice Canada

Canada

**Operational Bulletin: PRG-2017-****Title: Amendments to the *Immigration and Refugee Protection Regulations*: Ministerial Relief Applications**

Date of Issue: YYY-MM-DD	Mode(s): All	Target Audience: All Staff	Area of Interest: National and Overseas
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Purpose:

This Operational Bulletin (OB) describes amendments to the *Immigration and Refugee Protection Regulations* (IRPR) that are intended to bring greater clarity and consistency to the Ministerial Relief (MR) application process.

Key changes include the introduction of a mandatory application form (BSF766) and specific parameters regarding when an application for a declaration of relief may be submitted and when it may be closed.

Background:

- Under subsection 42.1(1) of the *Immigration and Refugee Protection Act* (IRPA), foreign nationals may make an application for a declaration from the Minister of Public Safety and Emergency Preparedness (the Minister) that the matters referred to in section 34, paragraphs 35(1)(b) or (c), or subsection 37(1) of the IRPA do not constitute inadmissibility in their case¹.
- The granting of an exception from inadmissibility related to these grounds (security, human or international rights violations, and organized criminality, respectively) cannot be delegated, and is commonly known as Ministerial relief.
- The Canada Border Services Agency (CBSA) conducts an assessment of MR applications and develops a recommendation for the Minister. In the past, no

¹ With the June 19, 2013 coming-into-force of Bill C-43, the *Faster Removal of Foreign Criminals Act* (FRFCA), the separate MR provisions under subsections 34(2), 35(2), and 37(2) of IRPA were repealed and replaced by section 42.1. Please refer to OB 533 – Coming into Force of Bill C-43 – Ministerial Relief Provisions.

formal MR application process existed: foreign nationals could submit a request at any time, in any format, and there were no regulatory requirements governing the MR application process.

Regulatory Amendments:

Amendments to the IRPR came into force on DATE IN FULL. The new regulatory framework institutes the following:

Provision	Subject	Impact
R24.1	Application	Establishes parameters regarding when an application for a declaration of relief may be submitted.
R10(1)(a) and R24.2	Form and content of application and required Information	Requires the use of a specific application form, "Application for a Declaration of Relief under Subsection 42.1(1) of the <i>Immigration and Refugee Protection Act</i> " [BSF766], and sets out the information that must be included in the application.
R24.3	Return of application	Allows an application to be returned, unprocessed, if it does not meet the prescribed requirements.
R24.4	Closing of file	Allows the closure of an application in specific circumstances (i.e., the applicant obtains PR status; the application is withdrawn; the applicant seeks judicial review (JR) of their inadmissibility determination or removal order; or, the applicant fails to respond within 60 days to a CBSA notice requiring that they confirm their intent to proceed with their MR application).
R24.5	Change in contact information	Requires applicants to provide updated contact information while MR applications are in process.

- For MR applications received prior to the coming-into-force of these regulations, transitional provisions limit the applicability of these amendments to the requirement to provide up-to-date contact information and the closure of files under the above-specified circumstances (except seeking JR of their inadmissibility determination or removal order).
- An additional transitional provision stipulates that an MR application received prior to the coming-into-force of these regulations will be closed following a final decision – including that all rights of judicial review have been exhausted or expired – that the applicant is not inadmissible on the grounds for which the applicant sought relief.

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Actions required by IRCC and CBSA officers:

- A request for Ministerial relief must be initiated by the applicant and is a separate process from an immigration application. Where inadmissible foreign nationals enquire about MR, they should be directed to form BSF766, which contains information regarding the MR process. **Note that a pending MR application does not stay a removal order.**
- All MR applications are received and processed by the Ministerial Relief Unit (MRU) at the CBSA. In order to ensure a streamlined approach when responding to process and/or case enquiries, it is requested that all correspondence and submissions regarding MR be forwarded to the MRU at:

Ministerial Relief Unit
Canada Border Services Agency
100 Metcalfe Street, 10th floor
Ottawa, Ontario K1A 0L8

Ministerial Relief.Exemptions Ministerielles@cbsa-asfc.gc.ca

- For foreign nationals who are outside of Canada, and who do not have a representative acting on their behalf in Canada, visa offices will in most cases continue to act as liaison between the applicant and the CBSA MRU. While these individuals may submit applications and submissions to the responsible visa office or to the CBSA directly, visa offices will retain primary responsibility for disclosing draft recommendations to applicants and communicating the decisions made by the Minister.

Contact Information:

Ministerial Relief Unit, Policy Division, Enforcement and Intelligence Programs Directorate, Programs Branch

Any questions regarding this bulletin should be directed to the generic inbox of the CBSA Ministerial Relief Unit via email at:

Ministerial Relief.Exemptions Ministerielles@cbsa-asfc.gc.ca.

Approved by: Richard St. Marseille, A/Director
Policy Division
Enforcement and Intelligence Programs Directorate
Programs Branch

Effective Date: Immediately

Updated: N/A

Additional bulletins:

First Session, Forty-first Parliament,
60-61-62 Elizabeth II, 2011-2012-2013

STATUTES OF CANADA 2013

CHAPTER 16

An Act to amend the Immigration and Refugee Protection Act

Loi modifiant la Loi sur l'immigration et la protection des réfugiés

ASSENTED TO

19th JUNE, 2013

BILL C-43

Première session, quarante et unième législature,
60-61-62 Elizabeth II, 2011-2012-2013

LOIS DU CANADA (2013)

CHAPITRE 16

SANCTIONNÉE

LE 19 JUIN 2013

PROJET DE LOI C-43

SUMMARY

This enactment amends the *Immigration and Refugee Protection Act* to limit the review mechanisms for certain foreign nationals and permanent residents who are inadmissible on such grounds as serious criminality. It also amends the Act to provide for the denial of temporary resident status to foreign nationals based on public policy considerations and provides for the entry into Canada of certain foreign nationals, including family members, who would otherwise be inadmissible. Finally, this enactment provides for the mandatory imposition of minimum conditions on permanent residents or foreign nationals who are the subject of a report on inadmissibility on grounds of security that is referred to the Immigration Division or a removal order for inadmissibility on grounds of security or who, on grounds of security, are named in a certificate that is referred to the Federal Court.

SOMMAIRE

Le texte modifie la *Loi sur l'immigration et la protection des réfugiés* pour limiter le nombre de mécanismes de révision pour certains étrangers et résidents permanents interdits de territoire pour des raisons sérieuses, notamment pour grande criminalité. Aussi, il prévoit la possibilité de refuser le statut de résident temporaire à un étranger pour des raisons d'intérêt public et permet l'entrée au Canada de certains étrangers, notamment les membres d'une famille, qui seraient autrement interdits de territoire. Finalement, il prévoit l'imposition obligatoire de conditions minimales aux résidents permanents ou aux étrangers qui, pour des raisons de sécurité, font l'objet d'un rapport d'interdiction de territoire à l'égard duquel l'affaire a été déferée à la Section de l'immigration, d'une mesure de renvoi ou d'un certificat déposé à la Cour fédérale.

Available on the Parliament of Canada Web Site at the following address:
<http://www.parl.gc.ca>

Disponible sur le site Web du Parlement du Canada à l'adresse suivante :
<http://www.parl.gc.ca>

60-61-62 ELIZABETH II

CHAPTER 16

An Act to amend the Immigration and Refugee Protection Act

[Assented to 19th June, 2013]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

Short title

1. This Act may be cited as the *Faster Removal of Foreign Criminals Act*.

2001, c. 27

IMMIGRATION AND REFUGEE PROTECTION ACT

2. Paragraph 4(2)(d) of the *Immigration and Refugee Protection Act* is replaced by the following:

(d) declarations referred to in section 42.1.

3. Subsection 6(3) of the Act is replaced by the following:

(3) Despite subsection (2), the Minister may not delegate the power conferred by section 22.1 or subsection 42.1(1) or (2) or 77(1).

4. Subsection 14(2) of the Act is amended by striking out "and" at the end of paragraph (f) and by adding the following after paragraph (f):

(f.1) the power to inspect, including the power to require documents to be provided for inspection, for the purpose of verifying compliance with undertakings; and

5. (1) Section 16 of the Act is amended by adding the following after subsection (1):

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CHAPITRE 16

Loi modifiant la Loi sur l'immigration et la protection des réfugiés

[Sanctionnée le 19 juin 2013]

Sa Majesté, sur l'avis et avec le consentement du Sénat et de la Chambre des communes du Canada, édicte :

TITRE ABRÉGÉ

1. *Loi accélérant le renvoi de criminels étrangers.*

Titre abrégé

2001, ch. 27

LOI SUR L'IMMIGRATION ET LA PROTECTION DES RÉFUGIÉS

2. L'alinéa 4(2)d de la *Loi sur l'immigration et la protection des réfugiés* est remplacé par ce qui suit :

d) aux déclarations visées à l'article 42.1.

3. Le paragraphe 6(3) de la même loi est remplacé par ce qui suit :

(3) Ne peuvent toutefois être déléguées les attributions conférées par l'article 22.1 et les paragraphes 42.1(1) et (2) et 77(1).

2005, ch. 38, art. 118

Restriction

4. Le paragraphe 14(2) de la même loi est modifié par adjonction, après l'alinéa f), de ce qui suit :

f.1) les pouvoirs d'inspection, notamment celui d'exiger la fourniture de tout document pour inspection, à des fins de vérification du respect des engagements;

5. (1) L'article 16 de la même loi est modifié par adjonction, après le paragraphe (1), de ce qui suit :

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Immigration and Refugee Protection

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Obligation—
appear for
examination

(1.1) A person who makes an application must, on request of an officer, appear for an examination.

(2) **Section 16 of the Act is amended by adding the following after subsection (2):**

Obligation—
interview

(2.1) A foreign national who makes an application must, on request of an officer, appear for an interview for the purpose of an investigation conducted by the Canadian Security Intelligence Service under section 15 of the *Canadian Security Intelligence Service Act* for the purpose of providing advice or information to the Minister under section 14 of that Act and must answer truthfully all questions put to them during the interview.

Declaration

(1.1) A foreign national who is the subject of a declaration made under subsection 22.1(1) must not seek to enter or remain in Canada as a temporary resident.

Temporary
resident

7. Subsection 22(1) of the Act is replaced by the following:

22. (1) A foreign national becomes a temporary resident if an officer is satisfied that the foreign national has applied for that status, has met the obligations set out in paragraph 20(1)(b), is not inadmissible and is not the subject of a declaration made under subsection 22.1(1).

Declaration

8. The Act is amended by adding the following after section 22:

22.1 (1) The Minister may, on the Minister's own initiative, declare that a foreign national, other than a foreign national referred to in section 19, may not become a temporary resident if the Minister is of the opinion that it is justified by public policy considerations.

Effective period

(2) A declaration has effect for the period specified by the Minister, which is not to exceed 36 months.

(1.1) L'auteur d'une demande au titre de la présente loi doit, à la demande de l'agent, se soumettre au contrôle.

(2) **L'article 16 de la même loi est modifié par adjonction, après le paragraphe (2), de ce qui suit :**

Obligation de se soumettre au contrôle

Obligation—
entrevue

(2.1) L'étranger qui présente une demande au titre de la présente loi doit, sur demande de l'agent, se présenter à toute entrevue menée par le Service canadien du renseignement de sécurité dans le cadre d'une enquête visée à l'article 15 de la *Loi sur le Service canadien du renseignement de sécurité* en vue de fournir au ministre les conseils visés à l'article 14 de cette loi ou de lui transmettre les informations visées à cet article. L'étranger doit répondre véritablement aux questions qui lui sont posées pendant cette entrevue.

6. L'article 20 de la même loi est modifié par adjonction, après le paragraphe (1), de ce qui suit :

Déclaration

(1.1) L'étranger qui fait l'objet d'une déclaration visée au paragraphe 22.1(1) ne peut chercher à entrer au Canada ou à y séjourner à titre de résident temporaire.

7. Le paragraphe 22(1) de la même loi est remplacé par ce qui suit :

Résident
temporaire

22. (1) Devient résident temporaire l'étranger dont l'agent constate qu'il a demandé ce statut, s'est déchargé des obligations prévues à l'alinéa 20(1)b), n'est pas interdit de territoire et ne fait pas l'objet d'une déclaration visée au paragraphe 22.1(1).

Déclaration

8. La même loi est modifiée par adjonction, après l'article 22, de ce qui suit :

22.1 (1) Le ministre peut, de sa propre initiative et s'il estime que l'intérêt public le justifie, déclarer que l'étranger non visé à l'article 19 ne peut devenir résident temporaire.

Validité

(2) La déclaration est valide pour la période prévue par le ministre, laquelle ne peut excéder trente-six mois.

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Revocation

(3) The Minister may, at any time, revoke a declaration or shorten its effective period.

Report to Parliament

(4) The report required under section 94 must include the number of declarations made under subsection (1) and set out the public policy considerations that led to the making of the declarations.

2010, c. 8, s. 4(1)

9. Subsection 25(1) of the Act is replaced by the following:

Humanitarian and compassionate considerations — request of foreign national

25. (1) The Minister must, on request of a foreign national in Canada who is inadmissible — other than under section 34, 35 or 37 — or who does not meet the requirements of this Act, and may, on request of a foreign national outside Canada — other than a foreign national who is inadmissible under section 34, 35 or 37 —, examine the circumstances concerning the foreign national and may grant the foreign national permanent resident status or an exemption from any applicable criteria or obligations of this Act if the Minister is of the opinion that it is justified by humanitarian and compassionate considerations relating to the foreign national, taking into account the best interests of a child directly affected.

2010, c. 8, s. 5

10. Subsection 25.1(1) of the Act is replaced by the following:

Humanitarian and compassionate considerations — Minister's own initiative

25.1 (1) The Minister may, on the Minister's own initiative, examine the circumstances concerning a foreign national who is inadmissible — other than under section 34, 35 or 37 — or who does not meet the requirements of this Act and may grant the foreign national permanent resident status or an exemption from any applicable criteria or obligations of this Act if the Minister is of the opinion that it is justified by humanitarian and compassionate considerations relating to the foreign national, taking into account the best interests of a child directly affected.

11. Section 26 of the Act is amended by adding the following after paragraph (b):

(b.1) declarations referred to in subsection 22.1(1);

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(3) Le ministre peut, à tout moment, révoquer la déclaration ou en raccourcir la période de validité.

Révocation

Rapport au Parlement

(4) Le rapport prévu à l'article 94 précise le nombre de déclarations faites en vertu du paragraphe (1) et explique en quoi l'intérêt public a donné lieu à de telles déclarations.

*** 9. Le paragraphe 25(1) de la même loi est remplacé par ce qui suit :**

2010, ch. 8, par. 4(1)

Séjour pour motif d'ordre humanitaire à la demande de l'étranger

25. (1) Le ministre doit, sur demande d'un étranger se trouvant au Canada qui est interdit de territoire — sauf si c'est en raison d'un cas visé aux articles 34, 35 ou 37 — ou qui ne se conforme pas à la présente loi, et peut, sur demande d'un étranger se trouvant hors du Canada — sauf s'il est interdit de territoire au titre des articles 34, 35 ou 37 —, étudier le cas de cet étranger; il peut lui octroyer le statut de résident permanent ou lever tout ou partie des critères et obligations applicables, s'il estime que des considérations d'ordre humanitaire relatives à l'étranger le justifient, compte tenu de l'intérêt supérieur de l'enfant directement touché.

10. Le paragraphe 25.1(1) de la même loi est remplacé par ce qui suit :

2010, ch. 8, art. 5

Séjour pour motif d'ordre humanitaire à l'initiative du ministre

25.1 (1) Le ministre peut, de sa propre initiative, étudier le cas de l'étranger qui est interdit de territoire — sauf si c'est en raison d'un cas visé aux articles 34, 35 ou 37 — ou qui ne se conforme pas à la présente loi; il peut lui octroyer le statut de résident permanent ou lever tout ou partie des critères et obligations applicables, s'il estime que des considérations d'ordre humanitaire relatives à l'étranger le justifient, compte tenu de l'intérêt supérieur de l'enfant directement touché.

11. L'article 26 de la même loi est modifié par adjonction, après l'alinéa b), de ce qui suit :

b.1) la déclaration visée au paragraphe 22.1(1);

12. Section 32 of the Act is amended by adding the following after paragraph (d):

(d.1) the conditions that must or may be imposed, individually or by class, on individuals and entities — including employers and educational institutions — in respect of permanent residents and foreign nationals, or that must or may be varied or cancelled;

(d.2) the power to inspect, including the power to require documents to be provided for inspection, for the purpose of verifying compliance with the conditions imposed under paragraphs (d) and (d.1);

(d.3) the consequences of a failure to comply with the conditions referred to in paragraphs (d) and (d.1);

13. (1) Paragraph 34(1)(a) of the Act is replaced by the following:

(a) engaging in an act of espionage that is against Canada or that is contrary to Canada's interests;

(2) Subsection 34(1) of the Act is amended by adding the following after paragraph (b):

(b.1) engaging in an act of subversion against a democratic government, institution or process as they are understood in Canada;

(2.1) Paragraph 34(1)(f) of the Act is replaced by the following:

(f) being a member of an organization that there are reasonable grounds to believe engages, has engaged or will engage in acts referred to in paragraph (a), (b), (b.1) or (c).

(3) Subsection 34(2) of the Act is repealed.

14. Subsection 35(2) of the Act is repealed.

15. Subsection 37(2) of the Act is replaced by the following:

(2) Paragraph (1)(a) does not lead to a determination of inadmissibility by reason only of the fact that the permanent resident or foreign

12. L'article 32 de la même loi est modifié par adjonction, après l'alinéa d), de ce qui suit :

d.1) les conditions qui peuvent ou doivent être, quant à toute personne ou entité, notamment des employeurs et des établissements d'enseignement, imposées, modifiées ou levées, individuellement ou par catégorie, relativement aux résidents permanents et aux étrangers;

d.2) les pouvoirs d'inspection, notamment celui d'exiger la fourniture de tout document pour inspection, à des fins de vérification du respect des conditions imposées en vertu des alinéas d) et d.1);

d.3) les conséquences du non-respect des conditions visées aux alinéas d) et d.1);

13. (1) L'alinéa 34(1)a) de la même loi est remplacé par ce qui suit :

a) être l'auteur de tout acte d'espionnage dirigé contre le Canada ou contraire aux intérêts du Canada;

(2) Le paragraphe 34(1) de la même loi est modifié par adjonction, après l'alinéa b), de ce qui suit :

b.1) se livrer à la subversion contre toute institution démocratique, au sens où cette expression s'entend au Canada;

(2.1) L'alinéa 34(1)f) de la même loi est remplacé par ce qui suit :

f) être membre d'une organisation dont il y a des motifs raisonnables de croire qu'elle est, a été ou sera l'auteur d'un acte visé aux alinéas a), b), b.1) ou c).

(3) Le paragraphe 34(2) de la même loi est abrogé.

14. Le paragraphe 35(2) de la même loi est abrogé.

15. Le paragraphe 37(2) de la même loi est remplacé par ce qui suit :

(2) Les faits visés à l'alinéa (1)a) n'emportent pas interdiction de territoire pour la seule raison que le résident permanent ou l'étranger

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national entered Canada with the assistance of a person who is involved in organized criminal activity.

16. (1) Paragraph 40(2)(a) of the Act is replaced by the following:

(a) the permanent resident or the foreign national continues to be inadmissible for misrepresentation for a period of five years following, in the case of a determination outside Canada, a final determination of inadmissibility under subsection (1) or, in the case of a determination in Canada, the date the removal order is enforced; and

(2) Section 40 of the Act is amended by adding the following after subsection (2):

(3) A foreign national who is inadmissible under this section may not apply for permanent resident status during the period referred to in paragraph (2)(a).

17. Section 42 of the Act is renumbered as subsection 42(1) and is amended by adding the following:

(2) In the case of a foreign national referred to in subsection (1) who is a temporary resident or who has made an application for temporary resident status or an application to remain in Canada as a temporary resident,

(a) the matters referred to in paragraph (1)(a) constitute inadmissibility only if the family member is inadmissible under section 34, 35 or 37; and

(b) the matters referred to in paragraph (1)(b) constitute inadmissibility only if the foreign national is an accompanying family member of a person who is inadmissible under section 34, 35 or 37.

Inadmissible

Exception

Exception—
application to
Minister

18. The Act is amended by adding the following after section 42:

42.1 (1) The Minister may, on application by a foreign national, declare that the matters referred to in section 34, paragraphs 35(1)(b) and (c) and subsection 37(1) do not constitute

est entré au Canada en ayant recours à une personne qui se livre aux activités qui y sont visées.

16. (1) L'alinéa 40(2)a) de la même loi est remplacé par ce qui suit :

a) l'interdiction de territoire court pour les cinq ans suivant la décision la constatant en dernier ressort, si le résident permanent ou l'étranger n'est pas au pays, ou suivant l'exécution de la mesure de renvoi;

(2) L'article 40 de la même loi est modifié par adjonction, après le paragraphe (2), de ce qui suit :

(3) L'étranger interdit de territoire au titre du présent article ne peut, pendant la période visée à l'alinéa (2)a), présenter de demande pour obtenir le statut de résident permanent.

Interdiction de
territoire

17. L'article 42 de la même loi devient le paragraphe 42(1) et est modifié par adjonction de ce qui suit :

(2) Dans le cas où l'étranger visé au paragraphe (1) est résident temporaire ou dans le cas où il a présenté une demande pour obtenir le statut de résident temporaire ou une demande de séjour au Canada à titre de résident temporaire :

a) les faits visés à l'alinéa (1)a) emportent interdiction de territoire seulement si le membre de sa famille est interdit de territoire en raison d'un cas visé aux articles 34, 35 ou 37;

b) les faits visés à l'alinéa (1)b) emportent interdiction de territoire seulement si le membre de sa famille qu'il accompagne est interdit de territoire en raison d'un cas visé aux articles 34, 35 ou 37.

Exception

18. La même loi est modifiée par adjonction, après l'article 42, de ce qui suit :

42.1 (1) Le ministre peut, sur demande d'un étranger, déclarer que les faits visés à l'article 34, aux alinéas 35(1)b) ou c) ou au paragraphe

Exception—
demande au
ministre

**Exception —
Minister's own
initiative**

inadmissibility in respect of the foreign national if they satisfy the Minister that it is not contrary to the national interest.

(2) The Minister may, on the Minister's own initiative, declare that the matters referred to in section 34, paragraphs 35(1)(b) and (c) and subsection 37(1) do not constitute inadmissibility in respect of a foreign national if the Minister is satisfied that it is not contrary to the national interest.

Considerations

(3) In determining whether to make a declaration, the Minister may only take into account national security and public safety considerations, but, in his or her analysis, is not limited to considering the danger that the foreign national presents to the public or the security of Canada.

19. Section 44 of the Act is amended by adding the following after subsection (3):

**Conditions —
inadmissibility
on grounds of
security**

(4) If a report on inadmissibility on grounds of security is referred to the Immigration Division and the permanent resident or the foreign national who is the subject of the report is not detained, an officer shall also impose the prescribed conditions on the person.

**Duration of
conditions**

(5) The prescribed conditions imposed under subsection (4) cease to apply only when

- (a) the person is detained;
- (b) the report on inadmissibility on grounds of security is withdrawn;
- (c) a final determination is made not to make a removal order against the person for inadmissibility on grounds of security;
- (d) the Minister makes a declaration under subsection 42.1(1) or (2) in relation to the person; or
- (e) a removal order is enforced against the person in accordance with the regulations.

**Exception — à
l'initiative du
ministre**

37(1) n'emportent pas interdiction de territoire à l'égard de l'étranger si celui-ci le convainc que cela ne serait pas contraire à l'intérêt national.

(2) Le ministre peut, de sa propre initiative, déclarer que les faits visés à l'article 34, aux alinéas 35(1)b ou c) ou au paragraphe 37(1) n'emportent pas interdiction de territoire à l'égard de tout étranger s'il est convaincu que cela ne serait pas contraire à l'intérêt national.

Considérations

(3) Pour décider s'il fait la déclaration, le ministre ne tient compte que de considérations relatives à la sécurité nationale et à la sécurité publique sans toutefois limiter son analyse au fait que l'étranger constitue ou non un danger pour le public ou la sécurité du Canada.

19. L'article 44 de la même loi est modifié par adjonction, après le paragraphe (3), de ce qui suit :

**Conditions —
interdiction de
territoire pour
raison de
sécurité**

(4) Si l'affaire relative à un rapport d'interdiction de territoire pour raison de sécurité est déférée à la Section de l'immigration et que le résident permanent ou l'étranger qui fait l'objet du rapport n'est pas détenu, l'agent impose également à celui-ci les conditions réglementaires.

**Durée des
conditions**

(5) Les conditions réglementaires imposées en vertu du paragraphe (4) ne cessent de s'appliquer que lorsque survient l'un ou l'autre des événements suivants :

- a) la détention de l'intéressé;
- b) le retrait du rapport d'interdiction de territoire pour raison de sécurité;
- c) la décision, en dernier ressort, selon laquelle n'est prise contre l'intéressé aucune mesure de renvoi pour interdiction de territoire pour raison de sécurité;
- d) la déclaration du ministre faite à l'égard de l'intéressé en vertu des paragraphes 42.1(1) ou (2);
- e) l'exécution de la mesure de renvoi visant l'intéressé conformément aux règlements.

20. (1) Subsection 46(1) of the Act is amended by striking out "or" at the end of paragraph (c), by adding "or" at the end of paragraph (d) and by adding the following after paragraph (d):

(e) on approval by an officer of their application to renounce their permanent resident status.

(2) Section 46 of the Act is amended by adding the following after subsection (1):

Effect of renunciation

(1.1) A person who loses their permanent resident status under paragraph (1)(e) becomes a temporary resident for a period of six months unless they make their application to renounce their permanent resident status at a port of entry or are not physically present in Canada on the day on which their application is approved.

21. Section 53 of the Act is amended by adding the following after paragraph (a):

(a.1) the form and manner in which an application to renounce permanent resident status must be made and the conditions that must be met before such an application may be approved;

22. Section 56 of the Act is renumbered as subsection 56(1) and is amended by adding the following:

**Conditions—
inadmissibility
on grounds of
security**

(2) If an officer orders the release of a permanent resident or foreign national who is the subject of either a report on inadmissibility on grounds of security that is referred to the Immigration Division or a removal order for inadmissibility on grounds of security, the officer must also impose the prescribed conditions on the person.

**Duration of
conditions**

(3) The prescribed conditions imposed under subsection (2) cease to apply only when one of the events described in paragraphs 44(5)(a) to (e) occurs.

23. Section 58 of the Act is amended by adding the following after subsection (3):

20. (1) Le paragraphe 46(1) de la même loi est modifié par adjonction, après l'alinéa d), de ce qui suit :

e) l'acceptation par un agent de la demande de renonciation au statut de résident permanent;

(2) L'article 46 de la même loi est modifié par adjonction, après le paragraphe (1), de ce qui suit :

(1.1) Devient résident temporaire pour une période de six mois, la personne qui perd le statut de résident permanent au titre de l'alinéa (1)e), sauf si elle présente sa demande de renonciation à un point d'entrée ou si elle n'est pas présente au Canada au moment de l'acceptation de la demande.

21. L'article 53 de la même loi est modifié par adjonction, après l'alinéa a), de ce qui suit :

a.1) les modalités de présentation d'une demande de renonciation au statut de résident permanent et les conditions à respecter pour qu'une telle demande soit acceptée;

22. L'article 56 de la même loi devient le paragraphe 56(1) et est modifié par adjonction de ce qui suit :

(2) Lorsqu'il ordonne la mise en liberté d'un résident permanent ou d'un étranger soit qui fait l'objet d'un rapport d'interdiction de territoire pour raison de sécurité et dont l'affaire est déferrée à la section, soit qui fait l'objet d'une mesure de renvoi pour interdiction de territoire pour raison de sécurité, l'agent lui impose également les conditions réglementaires.

(3) Les conditions réglementaires imposées en vertu du paragraphe (2) ne cessent de s'appliquer que lorsque survient l'un ou l'autre des événements mentionnés aux alinéas 44(5)a) à e).

**Effet de la
renonciation**

**Conditions—
interdiction de
territoire pour
raison de
sécurité**

**Durée des
conditions**

23. L'article 58 de la même loi est modifié par adjonction, après le paragraphe (3), de ce qui suit :

Conditions —
inadmissibility
on grounds of
security

(4) If the Immigration Division orders the release of a permanent resident or foreign national who is the subject of either a report on inadmissibility on grounds of security that is referred to the Immigration Division or a removal order for inadmissibility on grounds of security, it shall also impose the prescribed conditions on the person.

Duration of
conditions

(5) The prescribed conditions imposed under subsection (4) cease to apply only when one of the events described in paragraphs 44(5)(a) to (e) occurs.

24. Subsection 64(2) of the Act is replaced by the following:

Serious
criminality

(2) For the purpose of subsection (1), serious criminality must be with respect to a crime that was punished in Canada by a term of imprisonment of at least six months or that is described in paragraph 36(1)(b) or (c).

25. The Act is amended by adding the following after section 77:

Conditions —
inadmissibility
on grounds of
security

77.1 (1) If a certificate stating that a permanent resident or foreign national is inadmissible on grounds of security is referred to the Federal Court and no warrant for the person's arrest and detention is issued under section 81, the Minister of Public Safety and Emergency Preparedness shall impose the prescribed conditions on the person who is named in the certificate.

Duration of
conditions

(2) The prescribed conditions imposed under subsection (1) cease to apply only when

- (a) the person is detained;
- (b) the certificate stating that the person is inadmissible on grounds of security is withdrawn;
- (c) a final determination is made that the certificate is not reasonable;
- (d) the Minister makes a declaration under subsection 42.1(1) or (2) in relation to the person; or
- (e) a removal order is enforced against the person in accordance with the regulations.

(4) Lorsqu'elle ordonne la mise en liberté d'un résident permanent ou d'un étranger soit qui fait l'objet d'un rapport d'interdiction de territoire pour raison de sécurité et dont l'affaire est déférée à la section, soit qui fait l'objet d'une mesure de renvoi pour interdiction de territoire pour raison de sécurité, la section lui impose également les conditions réglementaires.

Conditions —
interdiction de
territoire pour
raison de
sécuritéDurée des
conditions

(5) Les conditions réglementaires imposées en vertu du paragraphe (4) ne cessent de s'appliquer que lorsque survient l'un ou l'autre des événements mentionnés aux alinéas 44(5)a) à e).

24. Le paragraphe 64(2) de la même loi est remplacé par ce qui suit :

Grande
criminalité

(2) L'interdiction de territoire pour grande criminalité vise, d'une part, l'infraction punie au Canada par un emprisonnement d'au moins six mois et, d'autre part, les faits visés aux alinéas 36(1)b) et c).

25. La même loi est modifiée par adjonction, après l'article 77, de ce qui suit :

Conditions —
interdiction de
territoire pour
raison de
sécurité

77.1 (1) Si est déposé à la Cour fédérale un certificat attestant qu'un résident permanent ou un étranger est interdit de territoire pour raison de sécurité et qu'aucun mandat pour son arrestation et sa mise en détention n'a été lancé en vertu de l'article 81, le ministre de la Sécurité publique et de la Protection civile impose à la personne qui y est visée les conditions réglementaires.

Durée des
conditions

(2) Les conditions réglementaires imposées en vertu du paragraphe (1) ne cessent de s'appliquer que lorsque survient l'un ou l'autre des événements suivants :

- a) la détention de l'intéressé;
- b) le retrait du certificat attestant que l'intéressé est interdit de territoire pour raison de sécurité;
- c) la décision, en dernier ressort, selon laquelle le certificat ne revêt pas un caractère raisonnable;
- d) la déclaration du ministre faite à l'égard de l'intéressé en vertu des paragraphes 42.1(1) ou (2);

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26. Section 82 of the Act is amended by adding the following after subsection (5):Conditions—
inadmissibility
on grounds of
security

(6) If the judge orders the release, under paragraph (5)(b), of a person who is named in a certificate stating that they are inadmissible on grounds of security, the judge shall also impose the prescribed conditions on the person.

No review of
conditions

(7) The prescribed conditions imposed under subsection (6) are not subject to review under subsection (4).

Variation of
conditions

(8) If a person is subject to the prescribed conditions imposed under subsection (6), any variation of conditions under subsection 82.1(1) or paragraph 82.2(3)(c) is not to result in the person being subject to conditions that do not include those prescribed conditions.

Duration of
conditions

(9) The prescribed conditions imposed under subsection (6) cease to apply only when one of the events described in paragraphs 77.1(2)(a) to (e) occurs.

2008, c. 3, s. 4

27. Subsection 87.2(1) of the Act is replaced by the following:

Regulations

87.2 (1) The regulations may provide for any matter relating to the application of this Division and may include provisions respecting

- (a) the conditions that must be imposed under subsection 77.1(1) or 82(6); and
- (b) the conditions and qualifications that persons must meet to be included in the list referred to in subsection 85(1) and the additional qualifications that are assets that may be taken into account for that purpose.

TRANSITIONAL PROVISIONSDefinition of
"the Act"**28. In sections 29 to 35, "the Act" means the *Immigration and Refugee Protection Act*.**

e) l'exécution de la mesure de renvoi visant l'intéressé conformément aux règlements.

26. L'article 82 de la même loi est modifié par adjonction, après le paragraphe (5), de ce qui suit :

(6) S'il ordonne, en vertu de l'alinéa (5)b), la mise en liberté d'une personne visée par un certificat attestant qu'elle est interdite de territoire pour raison de sécurité, le juge lui impose également les conditions réglementaires.

Conditions—
interdiction de
territoire pour
raison de
sécurité

(7) Les conditions réglementaires imposées en vertu du paragraphe (6) ne peuvent faire l'objet du contrôle prévu au paragraphe (4).

Conditions—
absence de
contrôle

(8) Si des conditions réglementaires sont imposées en vertu du paragraphe (6), aucune modification de conditions en vertu du paragraphe 82.1(1) ou de l'alinéa 82.2(3)c) ne peut donner lieu à une imposition de conditions qui ne comprennent pas ces conditions réglementaires.

Modification des
conditions

(9) Les conditions réglementaires imposées en vertu du paragraphe (6) ne cessent de s'appliquer que lorsque survient l'un ou l'autre des événements mentionnés aux alinéas 77.1(2)a) à e).

Durée des
conditions**27. Le paragraphe 87.2(1) de la même loi est remplacé par ce qui suit :**

87.2 (1) Les règlements régissent l'application de la présente section et portent notamment sur :

Règlements

- a) les conditions qui doivent être imposées en vertu des paragraphes 77.1(1) ou 82(6);
- b) les exigences — conditions et qualités — auxquelles doit satisfaire toute personne pour que son nom figure sur la liste dressée au titre du paragraphe 85(1), ainsi que sur les autres qualités qui constituent des atouts et dont il peut être tenu compte à cette fin.

DISPOSITIONS TRANSITOIRES**28. Aux articles 29 à 35, «Loi» s'entend de la *Loi sur l'immigration et la protection des réfugiés*.**Définition de
« Loi »

Humanitarian and compassionate considerations

Imposition of conditions by officer

Deemed imposition

Imposition of conditions by Immigration Division

29. Subsection 25(1) of the Act, as it read immediately before the day on which section 9 comes into force, continues to apply in respect of a request made under that subsection 25(1) if, before the day on which section 9 comes into force, no decision has been made in respect of the request.

30. (1) When circumstances permit the officer to do so, an officer referred to in subsection 44(4) of the Act must impose the conditions referred to in that subsection on a permanent resident or foreign national who, on the day on which this section comes into force,

(a) is the subject of either a report on inadmissibility on grounds of security that was referred to the Immigration Division before the day on which this section comes into force or a removal order for inadmissibility on grounds of security that was made before the day on which this section comes into force;

(b) is not detained; and

(c) is not subject to a release order with conditions that was made under section 58 of the Act.

(2) The conditions imposed under subsection (1) are deemed to have been imposed under subsection 44(4) of the Act.

31. (1) On application by the Minister of Public Safety and Emergency Preparedness, the Immigration Division must vary a release order with conditions that was made under section 58 of the Act before the day on which this section comes into force in order to impose the conditions referred to in subsection 58(4) of the Act on a permanent resident or foreign national who is the subject of either a report on inadmissibility on grounds of security or a removal order for inadmissibility on grounds of security.

29. Le paragraphe 25(1) de la Loi, dans sa version antérieure à l'entrée en vigueur de l'article 9, continue de s'appliquer à toute demande présentée au titre de ce paragraphe 25(1) si aucune décision n'a été rendue relativement à cette demande avant l'entrée en vigueur de cet article 9.

30. (1) Lorsque les circonstances le lui permettent, l'agent mentionné au paragraphe 44(4) de la Loi impose les conditions visées à ce paragraphe au résident permanent ou à l'étranger qui, à la date d'entrée en vigueur du présent article, à la fois :

- a) fait l'objet soit d'un rapport d'interdiction de territoire pour raison de sécurité portant sur une affaire qui a été déférée à la Section de l'immigration avant cette date, soit d'une mesure de renvoi pour interdiction de territoire pour raison de sécurité qui a été rendue avant cette date;
- b) n'est pas détenu;
- c) n'est pas visé par une ordonnance de mise en liberté assortie de conditions qui a été rendue au titre de l'article 58 de la Loi.

(2) Les conditions imposées en vertu du paragraphe (1) sont réputées avoir été imposées en vertu du paragraphe 44(4) de la Loi.

31. (1) Sur demande du ministre de la Sécurité publique et de la Protection civile, la Section de l'immigration modifie toute ordonnance de mise en liberté assortie de conditions qui a été rendue, avant l'entrée en vigueur du présent article, au titre de l'article 58 de la Loi à l'égard d'un résident permanent ou d'un étranger qui fait l'objet soit d'un rapport d'interdiction de territoire pour raison de sécurité, soit d'une mesure de renvoi pour interdiction de territoire pour raison de sécurité pour lui imposer les conditions visées au paragraphe 58(4) de la Loi.

Séjour pour motif d'ordre humanitaire

Imposition de conditions par l'agent

Présomption

Imposition de conditions par la Section de l'immigration

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Deemed imposition	(2) The conditions imposed under subsection (1) are deemed to have been imposed under subsection 58(4) of the Act.	(2) Les conditions imposées en vertu du paragraphe (1) sont réputées avoir été imposées en vertu du paragraphe 58(4) de la Loi.	Présomption
Appeal	32. Subsection 64(2) of the Act, as it read immediately before the day on which section 24 comes into force, continues to apply in respect of a person who had a right of appeal under subsection 63(1) of the Act before the day on which section 24 comes into force.	32. Le paragraphe 64(2) de la Loi, dans sa version antérieure à l'entrée en vigueur de l'article 24, continue de s'appliquer à l'égard de quiconque avait un droit d'appel au titre du paragraphe 63(1) de cette loi avant l'entrée en vigueur de l'article 24.	Appel
Appeal	33. Subsection 64(2) of the Act, as it read immediately before the day on which section 24 comes into force, continues to apply in respect of a person who is the subject of a report that is referred to the Immigration Division under subsection 44(2) of the Act before the day on which section 24 comes into force.	33. Le paragraphe 64(2) de la Loi, dans sa version antérieure à l'entrée en vigueur de l'article 24, continue de s'appliquer à l'égard de toute personne visée par une affaire déférée à la Section de l'immigration au titre du paragraphe 44(2) de cette loi avant l'entrée en vigueur de l'article 24.	Appel
Imposition of conditions by the Minister	34. Section 77.1 of the Act applies with respect to a certificate that was referred to the Federal Court before the day on which this section comes into force.	34. L'article 77.1 de la Loi s'applique à l'égard du certificat déposé à la Cour fédérale avant l'entrée en vigueur du présent article.	Imposition de conditions par le ministre
Imposition of conditions by judge	35. (1) On application by the Minister of Public Safety and Emergency Preparedness, a judge, as defined in section 76 of the Act, must vary an order that was made under paragraph 82(5)(b) of the Act before the day on which this section comes into force in order to impose the conditions referred to in subsection 82(6) of the Act on a permanent resident or foreign national who is named in a certificate stating that they are inadmissible on grounds of security.	35. (1) Sur demande du ministre de la Sécurité publique et de la Protection civile, le juge, au sens de l'article 76 de la Loi, modifie toute ordonnance qu'il a rendue, avant l'entrée en vigueur du présent article, en vertu de l'alinéa 82(5)b) de la Loi à l'égard d'une personne visée par un certificat attestant qu'elle est interdite de territoire pour raison de sécurité pour lui imposer les conditions visées au paragraphe 82(6) de la Loi.	Imposition de conditions par le juge
Deemed imposition	(2) The conditions imposed under subsection (1) are deemed to have been imposed under subsection 82(6) of the Act.	(2) Les conditions imposées en vertu du paragraphe (1) sont réputées avoir été imposées en vertu du paragraphe 82(6) de la Loi.	Présomption

COORDINATING AMENDMENTS

Bill C-31

36. (1) Subsections (2) to (11) apply if Bill C-31, introduced in the 1st session of the 41st Parliament and entitled the *Protecting Canada's Immigration System Act* (referred to in this section as the "other Act"), receives royal assent.

DISPOSITIONS DE COORDINATION

36. (1) Les paragraphes (2) à (11) s'appliquent en cas de sanction du projet de loi C-31, déposé au cours de la 1^{re} session de la 41^e législature et intitulé *Loi visant à protéger le système d'immigration du Canada* (appelé « autre loi » au présent article).

Projet de loi
C-31

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Exception	(2) On the first day on which both section 3 of the other Act and section 3 of this Act are in force, subsection 6(3) of the <i>Immigration and Refugee Protection Act</i> is replaced by the following:	(2) Dès le premier jour où l'article 3 de l'autre loi et l'article 3 de la présente loi sont tous deux en vigueur, le paragraphe 6(3) de la <i>Loi sur l'immigration et la protection des réfugiés</i> est remplacé par ce qui suit:
Humanitarian and compassionate considerations—request of foreign national	(3) Despite subsection (2), the Minister may not delegate the power conferred by subsection 20.1(1), section 22.1 or subsection 42.1(1) or (2) or 77(1).	(3) Ne peuvent toutefois être déléguées les attributions conférées par le paragraphe 20.1(1), l'article 22.1 et les paragraphes 42.1(1) et (2) et 77(1).
	(3) On the first day on which both section 13 of the other Act and section 9 of this Act are in force, subsection 25(1) of the <i>Immigration and Refugee Protection Act</i> is replaced by the following:	(3) Dès le premier jour où l'article 13 de l'autre loi et l'article 9 de la présente loi sont tous deux en vigueur, le paragraphe 25(1) de la <i>Loi sur l'immigration et la protection des réfugiés</i> est remplacé par ce qui suit:
	25. (1) Subject to subsection (1.2), the Minister must, on request of a foreign national in Canada who applies for permanent resident status and who is inadmissible — other than under section 34, 35 or 37 — or who does not meet the requirements of this Act, and may, on request of a foreign national outside Canada — other than a foreign national who is inadmissible under section 34, 35 or 37 — who applies for a permanent resident visa, examine the circumstances concerning the foreign national and may grant the foreign national permanent resident status or an exemption from any applicable criteria or obligations of this Act if the Minister is of the opinion that it is justified by humanitarian and compassionate considerations relating to the foreign national, taking into account the best interests of a child directly affected.	25. (1) Sous réserve du paragraphe (1.2), le ministre doit, sur demande d'un étranger se trouvant au Canada qui demande le statut de résident permanent et qui soit est interdit de territoire — sauf si c'est en raison d'un cas visé aux articles 34, 35 ou 37 —, soit ne se conforme pas à la présente loi, et peut, sur demande d'un étranger se trouvant hors du Canada — sauf s'il est interdit de territoire au titre des articles 34, 35 ou 37 — qui demande un visa de résident permanent, étudier le cas de cet étranger; il peut lui octroyer le statut de résident permanent ou lever tout ou partie des critères et obligations applicables, s'il estime que des considérations d'ordre humanitaire relatives à l'étranger le justifient, compte tenu de l'intérêt supérieur de l'enfant directement touché.
	(4) If section 24 of the other Act comes into force before section 22 of this Act, then that section 22 is replaced by the following:	(4) Si l'article 24 de l'autre loi entre en vigueur avant l'article 22 de la présente loi, cet article 22 est remplacé par ce qui suit:
	22. Section 56 of the Act is amended by adding the following after subsection (2):	22. L'article 56 de la même loi est modifié par adjonction, après le paragraphe (2), de ce qui suit:
Conditions — inadmissibility on grounds of security	(3) If an officer orders the release of a permanent resident or foreign national who is the subject of either a report on inadmissibility on grounds of security that is referred to the Immigration Division or a removal order for inadmissibility on grounds of security, the officer must also impose the prescribed conditions on the person.	(3) Lorsqu'il ordonne la mise en liberté d'un résident permanent ou d'un étranger soit qui fait l'objet d'un rapport d'interdiction de territoire pour raison de sécurité et dont l'affaire est déférée à la section, soit qui fait l'objet d'une mesure de renvoi pour interdiction de territoire pour raison de sécurité, l'agent lui impose également les conditions réglementaires.

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Duration of conditions

(4) The prescribed conditions imposed under subsection (3) cease to apply only when one of the events described in paragraphs 44(5)(a) to (e) occurs.

(5) If section 22 of this Act comes into force before section 24 of the other Act, then

(a) that section 24 is deemed never to have come into force and is repealed; and

(b) section 56 of the *Immigration and Refugee Protection Act* is amended by adding the following after subsection (1):

Period of detention—designated foreign national

(1.1) Despite subsection (1), a designated foreign national who is detained under this Division and who was 16 years of age or older on the day of the arrival that is the subject of the designation in question must be detained until

(a) a final determination is made to allow their claim for refugee protection or application for protection;

(b) they are released as a result of the Immigration Division ordering their release under section 58; or

(c) they are released as a result of the Minister ordering their release under section 58.1.

(6) If section 24 of the other Act comes into force on the same day as section 22 of this Act, then that section 24 is deemed to have come into force before that section 22 and subsection (4) applies as a consequence.

(7) If subsection 26(2) of the other Act comes into force before section 23 of this Act,

(a) that section 23 is replaced by the following:

23. Section 58 of the Act is amended by adding the following after subsection (4):

(4) Les conditions réglementaires imposées en vertu du paragraphe (3) ne cessent de s'appliquer que lorsque survient l'un ou l'autre des événements mentionnés aux alinéas 44(5)a) à e).

(5) Si l'article 22 de la présente loi entre en vigueur avant l'article 24 de l'autre loi :

a) cet article 24 est réputé ne pas être entré en vigueur et est abrogé;

b) l'article 56 de la *Loi sur l'immigration et la protection des réfugiés* est modifié par adjonction, après le paragraphe (1), de ce qui suit :

(1.1) Malgré le paragraphe (1), l'étranger désigné qui est détenu sous le régime de la présente section et qui était âgé de seize ans ou plus à la date de l'arrivée visée par la désignation en cause demeure en détention jusqu'à la survenance de l'un ou l'autre des événements suivants :

a) l'accueil en dernier ressort de sa demande d'asile ou de protection;

b) la prise d'effet de sa mise en liberté, prononcée par la section en vertu de l'article 58;

c) la prise d'effet de sa mise en liberté, ordonnée par le ministre au titre de l'article 58.1.

(6) Si l'entrée en vigueur de l'article 24 de l'autre loi et celle de l'article 22 de la présente loi sont concomitantes, cet article 24 est réputé être entré en vigueur avant cet article 22, le paragraphe (4) s'appliquant en conséquence.

(7) Si le paragraphe 26(2) de l'autre loi entre en vigueur avant l'article 23 de la présente loi :

a) cet article 23 est remplacé par ce qui suit :

23. L'article 58 de la même loi est modifié par adjonction, après le paragraphe (4), de ce qui suit :

Durée des conditions

Durée de la détention—étranger désigné

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Conditions—
inadmissibility
on grounds of
security

(5) If the Immigration Division orders the release of a permanent resident or foreign national who is the subject of either a report on inadmissibility on grounds of security that is referred to the Immigration Division or a removal order for inadmissibility on grounds of security, it shall also impose the prescribed conditions on the person.

Duration of
conditions

(6) The prescribed conditions imposed under subsection (5) cease to apply only when one of the events described in paragraphs 44(5)(a) to (e) occurs.

(b) every reference to subsection 58(4) in section 31 of this Act is replaced by a reference to subsection 58(5).

(8) If section 23 of this Act comes into force before subsection 26(2) of the other Act, then

(a) that subsection 26(2) is deemed never to have come into force and is repealed;

(b) section 58 of the *Immigration and Refugee Protection Act* is amended by adding the following after subsection (3):

Conditions—
designated
foreign national

(3.1) If the Immigration Division orders the release of a designated foreign national who was 16 years of age or older on the day of the arrival that is the subject of the designation in question, it shall also impose any condition that is prescribed.

(c) every reference to subsection 58(4) in the following provisions of the *Immigration and Refugee Protection Act* is replaced by a reference to subsection 58(3.1):

(i) paragraph 11(1.3)(a), as enacted by section 5 of the other Act,

(ii) paragraph 20.2(3)(a), as enacted by section 10 of the other Act,

(iii) paragraph 24(7)(a), as enacted by section 12 of the other Act, and

(iv) paragraph 25(1.03)(a), as enacted by subsection 13(1) of the other Act.

(9) If subsection 26(2) of the other Act comes into force on the same day as section 23 of this Act, then that subsection 26(2) is

(5) Lorsqu'elle ordonne la mise en liberté d'un résident permanent ou d'un étranger soit qui fait l'objet d'un rapport d'interdiction de territoire pour raison de sécurité et dont l'affaire est déférée à la section, soit qui fait l'objet d'une mesure de renvoi pour interdiction de territoire pour raison de sécurité, la section lui impose également les conditions réglementaires.

Conditions—
interdiction de
territoire pour
raison de
sécurité

(6) Les conditions réglementaires imposées en vertu du paragraphe (5) ne cessent de s'appliquer que lorsque survient l'un ou l'autre des événements mentionnés aux alinéas 44(5)a) à e):

b) à l'article 31 de la présente loi, « 58(4) » est remplacé par « 58(5) ».

(8) Si l'article 23 de la présente loi entre en vigueur avant le paragraphe 26(2) de l'autre loi :

a) ce paragraphe 26(2) est réputé ne pas être entré en vigueur et est abrogé;

b) l'article 58 de la *Loi sur l'immigration et la protection des réfugiés* est modifié par adjonction, après le paragraphe (3), de ce qui suit :

(3.1) Lorsqu'elle ordonne la mise en liberté d'un étranger désigné qui était âgé de seize ans ou plus à la date de l'arrivée visée par la désignation en cause, la section impose également les conditions prévues par règlement.

Conditions—
étranger désigné

c) dans les passages ci-après de la *Loi sur l'immigration et la protection des réfugiés*, « 58(4) » est remplacé par « 58(3.1) » :

(i) l'alinéa 11(1.3)a), édicté par l'article 5 de l'autre loi,

(ii) l'alinéa 20.2(3)a), édicté par l'article 10 de l'autre loi,

(iii) l'alinéa 24(7)a), édicté par l'article 12 de l'autre loi,

(iv) l'alinéa 25(1.03)a), édicté par le paragraphe 13(1) de l'autre loi.

(9) Si l'entrée en vigueur du paragraphe 26(2) de l'autre loi et celle de l'article 23 de la présente loi sont concomitantes, ce

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deemed to have come into force before that section 23 and subsection (7) applies as a consequence.

(10) On the first day on which both section 27 of the other Act and section 23 of this Act are in force, section 58.1 of the *Immigration and Refugee Protection Act* is amended by adding the following after subsection (3):

Conditions —
inadmissibility
on grounds of
security

(4) If the Minister orders the release of a designated foreign national who is the subject of either a report on inadmissibility on grounds of security that is referred to the Immigration Division or a removal order for inadmissibility on grounds of security, the Minister must also impose the prescribed conditions on the person.

Duration of
conditions

(5) The prescribed conditions imposed under subsection (4) cease to apply only when one of the events described in paragraphs 44(5)(a) to (e) occurs.

(11) On the first day on which both section 28 of the other Act and section 23 of this Act are in force, section 61 of the *Immigration and Refugee Protection Act* is amended by adding the following after paragraph (a.2):

(a.3) the conditions that an officer, the Immigration Division or the Minister must impose with respect to the release of a permanent resident or foreign national who is the subject of either a report on inadmissibility on grounds of security or a removal order for inadmissibility on grounds of security;

Bill C-38

37. (1) Subsections (2) to (4) apply if Bill C-38, introduced in the 1st session of the 41st Parliament and entitled the *Jobs, Growth and Long-term Prosperity Act* (referred to in this section as the "other Act"), receives royal assent.

(2) If section 705 of the other Act comes into force before section 12 of this Act, then

(a) that section 12 is deemed never to have come into force and is repealed; and

paragraphe 26(2) est réputé être entré en vigueur avant cet article 23, le paragraphe (7) s'appliquant en conséquence.

(10) Dès le premier jour où l'article 27 de l'autre loi et l'article 23 de la présente loi sont tous deux en vigueur, l'article 58.1 de la *Loi sur l'immigration et la protection des réfugiés* est modifié par adjonction, après le paragraphe (3), de ce qui suit:

(4) Lorsqu'il ordonne la mise en liberté d'un étranger désigné soit qui fait l'objet d'un rapport d'interdiction de territoire pour raison de sécurité et dont l'affaire est déférée à la section, soit qui fait l'objet d'une mesure de renvoi pour interdiction de territoire pour raison de sécurité, le ministre impose également les conditions réglementaires.

(5) Les conditions réglementaires imposées en vertu du paragraphe (4) ne cessent de s'appliquer que lorsque survient l'un ou l'autre des événements mentionnés aux alinéas 44(5)a à e).

Conditions —
interdiction de
territoire pour
raison de
sécurité

Durée des
conditions

(11) Dès le premier jour où l'article 28 de l'autre loi et l'article 23 de la présente loi sont tous deux en vigueur, l'article 61 de la *Loi sur l'immigration et la protection des réfugiés* est modifié par adjonction, après l'alinéa a.2), de ce qui suit:

a.3) les conditions relatives à la mise en liberté du résident permanent ou de l'étranger qui fait l'objet soit d'un rapport d'interdiction de territoire pour raison de sécurité, soit d'une mesure de renvoi pour interdiction de territoire pour raison de sécurité que doit imposer l'agent, la section ou le ministre;

Projet de loi
C-38

37. (1) Les paragraphes (2) à (4) s'appliquent en cas de sanction du projet de loi C-38, déposé au cours de la 1^{re} session de la 41^e législature et intitulé *Loi sur l'emploi, la croissance et la prospérité durable* (appelé «autre loi» au présent article).

(2) Si l'article 705 de l'autre loi entre en vigueur avant l'article 12 de la présente loi:

a) cet article 12 est réputé ne pas être entré en vigueur et est abrogé;

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(b) paragraphs 32(d.1) to (d.3) of the *Immigration and Refugee Protection Act* are replaced by the following:

(d.1) the conditions that must or may be imposed, individually or by class, on individuals and entities — including employers and educational institutions — in respect of permanent residents and foreign nationals, or that must or may be varied or cancelled;

(d.2) the power to inspect, including the power to require documents to be provided for inspection, for the purpose of verifying compliance with the conditions imposed under paragraphs (d) and (d.1);

(d.3) the consequences of a failure to comply with the conditions referred to in paragraphs (d) and (d.1);

(3) If section 12 of this Act comes into force before section 705 of the other Act, that section 705 is deemed never to have come into force and is repealed.

(4) If section 705 of the other Act and section 12 of this Act come into force on the same day, then that section 12 is deemed to have come into force before that section 705 and subsection (3) applies as a consequence.

COMING INTO FORCE

Order in council

38. (1) Sections 6 to 8, 16, 17 and 20 come into force on a day or days to be fixed by order of the Governor in Council.

Order in council

(2) Sections 19, 22, 23, 25 to 27, 30, 31, 34 and 35 come into force on a day to be fixed by order of the Governor in Council.

b) les alinéas 32d.1) à d.3) de la *Loi sur l'immigration et la protection des réfugiés* sont remplacés par ce qui suit :

d.1) les conditions qui peuvent ou doivent être, quant à toute personne ou entité, notamment des employeurs et des établissements d'enseignement, imposées, modifiées ou levées, individuellement ou par catégorie, relativement aux résidents permanents et aux étrangers;

d.2) les pouvoirs d'inspection, notamment celui d'exiger la fourniture de tout document pour inspection, à des fins de vérification du respect des conditions imposées en vertu des alinéas d) et d.1);

d.3) les conséquences du non-respect des conditions visées aux alinéas d) et d.1);

(3) Si l'article 12 de la présente loi entre en vigueur avant l'article 705 de l'autre loi, cet article 705 est réputé ne pas être entré en vigueur et est abrogé.

(4) Si l'entrée en vigueur de l'article 705 de l'autre loi et celle de l'article 12 de la présente loi sont concomitantes, cet article 12 est réputé être entré en vigueur avant cet article 705, le paragraphe (3) s'appliquant en conséquence.

ENTRÉE EN VIGUEUR

38. (1) Les articles 6 à 8, 16, 17 et 20 entrent en vigueur à la date ou aux dates fixées par décret.

Décret

(2) Les articles 19, 22, 23, 25 à 27, 30, 31, 34 et 35 entrent en vigueur à la date fixée par décret.

Décret

Available on the Parliament of Canada Web Site at the following address:
Disponible sur le site Web du Parlement du Canada à l'adresse suivante :
<http://www.parl.gc.ca>

- (d.3) the consequences of a failure to comply with the conditions referred to in paragraphs (d) and (d.1);
- (d.4) a system of administrative monetary penalties applicable to the contravention by an employer of any conditions referred to in paragraph (d.1) and the amounts of those penalties;
- (d.5) the requirement for an employer to provide a prescribed person with prescribed information in relation to a foreign national's authorization to work in Canada for the employer;
- (e) the residency obligation under section 28, including rules for calculating applicable days and periods; and
- (f) the circumstances in which a document indicating status or a travel document may or must be issued, renewed or revoked.

2001, c. 27, s. 32; 2012, c. 19, s. 705; 2013, c. 16, s. 37; 2014, c. 20, s. 302, c. 39, s. 309; 2015, c. 36, s. 172.

DIVISION 4

Inadmissibility

Rules of interpretation

33 The facts that constitute inadmissibility under sections 34 to 37 include facts arising from omissions and, unless otherwise provided, include facts for which there are reasonable grounds to believe that they have occurred, are occurring or may occur.

Security

34 (1) A permanent resident or a foreign national is inadmissible on security grounds for

- (a) engaging in an act of espionage that is against Canada or that is contrary to Canada's interests;
- (b) engaging in or instigating the subversion by force of any government;
- (b.1) engaging in an act of subversion against a democratic government, institution or process as they are understood in Canada;
- (c) engaging in terrorism;
- (d) being a danger to the security of Canada;
- (e) engaging in acts of violence that would or might endanger the lives or safety of persons in Canada; or

- d.3)** les conséquences du non-respect des conditions visées aux alinéas d) et d.1);

d.4) le régime de sanctions administratives péquénaires applicable aux cas de non-respect par un employeur de toute condition visée à l'alinéa d.1) et le montant des pénalités imposées au titre de ce régime;

d.5) l'exigence pour un employeur de fournir, à la personne visée par règlement, les renseignements réglementaires relatifs à l'autorisation pour un étranger d'exercer un emploi au Canada pour cet employeur;

e) l'obligation de résidence, et les règles de calcul des jours et périodes applicables;

f) les cas de délivrance, de renouvellement et de révocation de l'attestation de statut et du titre de voyage.

2001, ch. 27, art. 32; 2012, ch. 19, art. 705; 2013, ch. 16, art. 37; 2014, ch. 20, art. 302, ch. 39, art. 309; 2015, ch. 36, art. 172.

SECTION 4

Interdictions de territoire

Interprétation

33 Les faits — actes ou omissions — mentionnés aux articles 34 à 37 sont, sauf disposition contraire, appréciés sur la base de motifs raisonnables de croire qu'ils sont survenus, surviennent ou peuvent survenir.

Sécurité

34 (1) Emportent interdiction de territoire pour raison de sécurité les faits suivants :

- a)** être l'auteur de tout acte d'espionnage dirigé contre le Canada ou contraire aux intérêts du Canada;
- b)** être l'instigateur ou l'auteur d'actes visant au renversement d'un gouvernement par la force;
- b.1)** se livrer à la subversion contre toute institution démocratique, au sens où cette expression s'entend au Canada;
- c)** se livrer au terrorisme;
- d)** constituer un danger pour la sécurité du Canada;
- e)** être l'auteur de tout acte de violence susceptible de mettre en danger la vie ou la sécurité d'autrui au Canada;

Serious criminality

36 (1) A permanent resident or a foreign national is inadmissible on grounds of serious criminality for

- (a)** having been convicted in Canada of an offence under an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years, or of an offence under an Act of Parliament for which a term of imprisonment of more than six months has been imposed;
- (b)** having been convicted of an offence outside Canada that, if committed in Canada, would constitute an offence under an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years; or
- (c)** committing an act outside Canada that is an offence in the place where it was committed and that, if committed in Canada, would constitute an offence under an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years.

Criminality

(2) A foreign national is inadmissible on grounds of criminality for

- (a)** having been convicted in Canada of an offence under an Act of Parliament punishable by way of indictment, or of two offences under any Act of Parliament not arising out of a single occurrence;
- (b)** having been convicted outside Canada of an offence that, if committed in Canada, would constitute an indictable offence under an Act of Parliament, or of two offences not arising out of a single occurrence that, if committed in Canada, would constitute offences under an Act of Parliament;
- (c)** committing an act outside Canada that is an offence in the place where it was committed and that, if committed in Canada, would constitute an indictable offence under an Act of Parliament; or
- (d)** committing, on entering Canada, an offence under an Act of Parliament prescribed by regulations.

Application

(3) The following provisions govern subsections (1) and (2):

- (a)** an offence that may be prosecuted either summarily or by way of indictment is deemed to be an indictable offence, even if it has been prosecuted summarily;

Grande criminalité

36 (1) Emportent interdiction de territoire pour grande criminalité les faits suivants :

- a)** être déclaré coupable au Canada d'une infraction à une loi fédérale punissable d'un emprisonnement maximal d'au moins dix ans ou d'une infraction à une loi fédérale pour laquelle un emprisonnement de plus de six mois est infligé;
- b)** être déclaré coupable, à l'extérieur du Canada, d'une infraction qui, commise au Canada, constituerait une infraction à une loi fédérale punissable d'un emprisonnement maximal d'au moins dix ans;
- c)** commettre, à l'extérieur du Canada, une infraction qui, commise au Canada, constituerait une infraction à une loi fédérale punissable d'un emprisonnement maximal d'au moins dix ans.

Criminalité

(2) Emportent, sauf pour le résident permanent, interdiction de territoire pour criminalité les faits suivants :

- a)** être déclaré coupable au Canada d'une infraction à une loi fédérale punissable par mise en accusation ou de deux infractions à toute loi fédérale qui ne découlent pas des mêmes faits;
- b)** être déclaré coupable, à l'extérieur du Canada, d'une infraction qui, commise au Canada, constituerait une infraction à une loi fédérale punissable par mise en accusation ou de deux infractions qui ne découlent pas des mêmes faits et qui, commises au Canada, constituerait des infractions à des lois fédérales;
- c)** commettre, à l'extérieur du Canada, une infraction qui, commise au Canada, constituerait une infraction à une loi fédérale punissable par mise en accusation;
- d)** commettre, à son entrée au Canada, une infraction qui constitue une infraction à une loi fédérale précisée par règlement.

Application

(3) Les dispositions suivantes régissent l'application des paragraphes (1) et (2) :

- a)** l'infraction punissable par mise en accusation ou par procédure sommaire est assimilée à l'infraction punissable par mise en accusation, indépendamment du mode de poursuite effectivement retenu;

Application

(2) Paragraph (1)(a) does not lead to a determination of inadmissibility by reason only of the fact that the permanent resident or foreign national entered Canada with the assistance of a person who is involved in organized criminal activity.

2001, c. 27, s. 37; 2013, c. 16, s. 15; 2015, c. 3, s. 109(E).

Health grounds

38 (1) A foreign national is inadmissible on health grounds if their health condition

- (a)** is likely to be a danger to public health;
- (b)** is likely to be a danger to public safety; or
- (c)** might reasonably be expected to cause excessive demand on health or social services.

Exception

(2) Paragraph (1)(c) does not apply in the case of a foreign national who

- (a)** has been determined to be a member of the family class and to be the spouse, common-law partner or child of a sponsor within the meaning of the regulations;
- (b)** has applied for a permanent resident visa as a Convention refugee or a person in similar circumstances;
- (c)** is a protected person; or
- (d)** is, where prescribed by the regulations, the spouse, common-law partner, child or other family member of a foreign national referred to in any of paragraphs (a) to (c).

Financial reasons

39 A foreign national is inadmissible for financial reasons if they are or will be unable or unwilling to support themselves or any other person who is dependent on them, and have not satisfied an officer that adequate arrangements for care and support, other than those that involve social assistance, have been made.

Misrepresentation

40 (1) A permanent resident or a foreign national is inadmissible for misrepresentation

- (a)** for directly or indirectly misrepresenting or withholding material facts relating to a relevant matter

Application

(2) Les faits visés à l'alinéa (1)a) n'emportent pas interdiction de territoire pour la seule raison que le résident permanent ou l'étranger est entré au Canada en ayant recours à une personne qui se livre aux activités qui y sont visées.

2001, ch. 27, art. 37; 2013, ch. 16, art. 15; 2015, ch. 3, art. 109(A).

Motifs sanitaires

38 (1) Emporte, sauf pour le résident permanent, interdiction de territoire pour motifs sanitaires l'état de santé de l'étranger constituant vraisemblablement un danger pour la santé ou la sécurité publiques ou risquant d'entraîner un fardeau excessif pour les services sociaux ou de santé.

Exception

(2) L'état de santé qui risquerait d'entraîner un fardeau excessif pour les services sociaux ou de santé n'emporte toutefois pas interdiction de territoire pour l'étranger :

- a)** dont il a été statué qu'il fait partie de la catégorie « regroupement familial » en tant qu'époux, conjoint de fait ou enfant d'un répondant dont il a été statué qu'il a la qualité réglementaire;
- b)** qui a demandé un visa de résident permanent comme réfugié ou personne en situation semblable;
- c)** qui est une personne protégée;
- d)** qui est l'époux, le conjoint de fait, l'enfant ou un autre membre de la famille — visé par règlement — de l'étranger visé aux alinéas a) à c).

Motifs financiers

39 Emporte interdiction de territoire pour motifs financiers l'incapacité de l'étranger ou son absence de volonté de subvenir, tant actuellement que pour l'avenir, à ses propres besoins et à ceux des personnes à sa charge, ainsi que son défaut de convaincre l'agent que les dispositions nécessaires — autres que le recours à l'aide sociale — ont été prises pour couvrir leurs besoins et les siens.

Fausses déclarations

40 (1) Emportent interdiction de territoire pour fausses déclarations les faits suivants :

- a)** directement ou indirectement, faire une présentation erronée sur un fait important quant à un objet pertinent, ou une réticence sur ce fait, ce qui entraîne

Cessation of refugee protection — permanent resident

(2) A permanent resident is inadmissible on a final determination that their refugee protection has ceased for any of the reasons described in paragraphs 108(1)(a) to (d).

2012, c. 17, s. 18.

Non-compliance with Act

41 A person is inadmissible for failing to comply with this Act

(a) in the case of a foreign national, through an act or omission which contravenes, directly or indirectly, a provision of this Act; and

(b) in the case of a permanent resident, through failing to comply with subsection 27(2) or section 28.

Inadmissible family member

42 (1) A foreign national, other than a protected person, is inadmissible on grounds of an inadmissible family member if

(a) their accompanying family member or, in prescribed circumstances, their non-accompanying family member is inadmissible; or

(b) they are an accompanying family member of an inadmissible person.

Exception

(2) In the case of a foreign national referred to in subsection (1) who is a temporary resident or who has made an application for temporary resident status or an application to remain in Canada as a temporary resident,

(a) the matters referred to in paragraph (1)(a) constitute inadmissibility only if the family member is inadmissible under section 34, 35 or 37; and

(b) the matters referred to in paragraph (1)(b) constitute inadmissibility only if the foreign national is an accompanying family member of a person who is inadmissible under section 34, 35 or 37.

2001, c. 27, s. 42; 2013, c. 16, s. 17.

Exception — application to Minister

42.1 (1) The Minister may, on application by a foreign national, declare that the matters referred to in section 34, paragraphs 35(1)(b) and (c) and subsection 37(1) do not constitute inadmissibility in respect of the foreign

Perte de l'asile — résident permanent

(2) La décision prise, en dernier ressort, au titre du paragraphe 108(2) entraînant, sur constat des faits mentionnés à l'un des alinéas 108(1)a) à d), la perte de l'asile d'un résident permanent emporte son interdiction de territoire.

2012, ch. 17, art. 18.

Manquement à la loi

41 S'agissant de l'étranger, emportent interdiction de territoire pour manquement à la présente loi tout fait — acte ou omission — commis directement ou indirectement en contravention avec la présente loi et, s'agissant du résident permanent, le manquement à l'obligation de résidence et aux conditions imposées.

Inadmissibilité familiale

42 (1) Emportent, sauf pour le résident permanent ou une personne protégée, interdiction de territoire pour inadmissibilité familiale les faits suivants :

a) l'interdiction de territoire frappant tout membre de sa famille qui l'accompagne ou qui, dans les cas réglementaires, ne l'accompagne pas;

b) accompagner, pour un membre de sa famille, un interdit de territoire.

Exception

(2) Dans le cas où l'étranger visé au paragraphe (1) est résident temporaire ou dans le cas où il a présenté une demande pour obtenir le statut de résident temporaire ou une demande de séjour au Canada à titre de résident temporaire :

a) les faits visés à l'alinéa (1)a) emportent interdiction de territoire seulement si le membre de sa famille est interdit de territoire en raison d'un cas visé aux articles 34, 35 ou 37;

b) les faits visés à l'alinéa (1)b) emportent interdiction de territoire seulement si le membre de sa famille qu'il accompagne est interdit de territoire en raison d'un cas visé aux articles 34, 35 ou 37.

2001, ch. 27, art. 42; 2013, ch. 16, art. 17.

Exception — demande au ministre

42.1 (1) Le ministre peut, sur demande d'un étranger, déclarer que les faits visés à l'article 34, aux alinéas 35(1)b) ou c) ou au paragraphe 37(1) n'emportent pas interdiction de territoire à l'égard de l'étranger si celui-ci le

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DORS

His Excellency the Governor General in Council, on the recommendation of the Minister of Public Safety and Emergency Preparedness, pursuant to subsection 5(1) and section 43 of the *Immigration and Refugee Protection Act*^a, makes the annexed *Regulations Amending the Immigration and Refugee Protection Regulations*.

Sur recommandation du ministre de la Sécurité publique et de la Protection civile et en vertu du paragraphe 5(1) et de l'article 43 de la *Loi sur l'immigration et la protection des réfugiés*^b, Son Excellence le Gouverneur général en conseil prend le *Règlement modifiant le Règlement sur l'immigration et la protection des réfugiés*, ci-après.

^a S.C. 2001, c. 27

^b L.C. 2001, ch. 27

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Regulations Amending the Immigration and Refugee Protection Regulations

Amendments

1 Paragraph 10(1)(a) of the *Immigration and Refugee Protection Regulations*¹ is replaced by the following:

(a) be made in writing using the form, if any, provided by the Department or, in the case of an application for a declaration of relief under subsection 42.1(1) of the Act, by the Canada Border Services Agency;

2 The Regulations are amended by adding the following before section 14:

DIVISION 1

Determination of Inadmissibility

3 The Regulations are amended by adding the following after section 24:

DIVISION 2

Application for Declaration of Relief Under Subsection 42.1(1) of the Act

Application

24.1 (1) A foreign national may apply for a declaration of relief under subsection 42.1(1) of the Act if a decision has been made to refuse their application for permanent or temporary resident status, or a removal order has been issued against them, on the basis of a determination of inadmissibility under section 34, paragraph 35(1)(b) or (c) or subsection 37(1) of the Act.

Judicial review

(2) However, if the foreign national has filed an application for leave to commence an application for judicial review under subsection 72(1) of the Act with respect to a decision or removal order referred to in subsection (1),

¹ SOR/2002-227

Règlement modifiant le Règlement sur l'immigration et la protection des réfugiés

Modifications

1 L'alinéa 10(1)a) du *Règlement sur l'immigration et la protection des réfugiés*¹ est remplacé par ce qui suit :

a) est faite par écrit sur le formulaire fourni, le cas échéant, par le ministère ou, dans le cas d'une demande de déclaration de dispense visée au paragraphe 42.1(1) de la Loi, par l'Agence des services frontaliers du Canada;

2 Le même règlement est modifié par adjonction, avant l'article 14, de ce qui suit :

SECTION 1

Constat de l'interdiction de territoire

3 Le même règlement est modifié par adjonction, après l'article 24, de ce qui suit :

SECTION 2

Demande de déclaration de dispense visée au paragraphe 42.1(1) de la Loi

Demande

24.1 (1) L'étranger peut présenter une demande de déclaration de dispense visée au paragraphe 42.1(1) de la Loi lorsque une décision faisant état du refus de sa demande de statut de résident permanent ou temporaire a été rendue ou qu'une mesure de renvoi a été prise sur le fondement du constat de l'interdiction de territoire prévue à l'article 34, aux alinéas 35(1)b) ou c) ou au paragraphe 37(1) de la Loi.

Contrôle judiciaire

(2) Toutefois, l'étranger qui a présenté une demande d'autorisation de contrôle judiciaire en vertu du paragraphe 72(1) de la Loi à l'égard d'une décision ou d'une

¹ DORS/2002-227

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the foreign national may only make an application under subsection (1) after the earliest of the following:

- (a) the Federal Court refuses the application for leave,
- (b) if the application for leave is granted, the Federal Court refuses the application for judicial review and no question is certified for the Federal Court of Appeal,
- (c) if a question is certified for the Federal Court of Appeal,
 - (i) an appeal to the Federal Court of Appeal is not filed within the time limit, or
 - (ii) the Federal Court of Appeal dismisses the appeal and an application to the Supreme Court of Canada for leave to appeal from that decision is not filed within the time limit,
- (d) if an application is filed with the Supreme Court of Canada for leave to appeal,
 - (i) the application is refused,
 - (ii) the application is granted and an appeal is not filed within the time limit, or
 - (iii) the Supreme Court of Canada dismisses the appeal, and
- (e) the foreign national discontinues their application for leave to commence an application for judicial review, application for judicial review, appeal to the Federal Court of Appeal, application to the Supreme Court of Canada for leave to appeal or appeal to the Supreme Court of Canada, as the case may be.

Required information

24.2 (1) An application under subsection 42.1(1) of the Act must include the following information in respect of the applicant:

- (a) their place of birth, gender and marital status and the names of any former spouses or common-law partners;
- (b) their telephone number and email address, if any;
- (c) their former countries of citizenship or former countries of nationality;
- (d) their education, including the name and address of all elementary and secondary schools and post-secondary, technical and vocational institutions attended

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mesure de renvoi visée au paragraphe (1), ne peut présenter la demande visée à ce paragraphe qu'après le premier en date des événements suivants :

- a)** la demande d'autorisation à la Cour fédérale est rejetée;
- b)** la demande d'autorisation est accueillie et la demande de contrôle judiciaire est rejetée par la Cour fédérale sans qu'une question soit certifiée pour la Cour d'appel fédérale;
- c)** dans le cas où une question est certifiée pour la Cour d'appel fédérale :
 - (i)** soit le délai d'appel à la Cour d'appel fédérale expire sans qu'un appel soit interjeté,
 - (ii)** soit l'appel est rejeté par la Cour d'appel fédérale et le délai de dépôt d'une demande d'autorisation d'en appeler à la Cour suprême du Canada expire sans qu'une demande soit déposée;
- d)** dans le cas où une demande d'autorisation d'interjeter appel est déposée à la Cour suprême du Canada :
 - (i)** soit la demande est rejetée,
 - (ii)** soit la demande est accueillie et l'appel n'est pas interjeté dans le délai imparti,
 - (iii)** soit la Cour suprême du Canada rejette l'appel;
- e)** l'étranger se désiste de sa demande d'autorisation de contrôle judiciaire, de sa demande de contrôle judiciaire, de son appel en Cour d'appel fédérale ou de sa demande d'autorisation d'appel ou de son appel en Cour suprême du Canada, selon le cas.

Renseignements exigés

24.2 (1) La demande visée au paragraphe 42.1(1) de la Loi comprend les renseignements ci-après sur le demandeur :

- a)** le lieu de sa naissance, son sexe, son état matrimonial ainsi que le nom de tous ses ex-époux ou anciens conjoints de fait;
- b)** son numéro de téléphone et son adresse électronique, le cas échéant;
- c)** les pays dont il a déjà eu la nationalité ou la citoyenneté;
- d)** ses études, notamment les nom et adresse des établissements primaires, secondaires, techniques, professionnels et postsecondaires qu'il a fréquentés et la

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and the start and end dates for the periods during which they attended each school or institution;

(e) their work history, including volunteer work, from the age of 16 years, including start and end dates for each period of work, their job title and job description and the employer's name and address;

(f) their international travel history from the age of 16 years, including a list of the countries visited, the purpose of the visits, the dates and duration of the visits and any immigration status sought from or granted by any country visited; and

(g) the provision of the Act under which they were determined to be inadmissible — section 34, paragraph 35(1)(b) or (c) or subsection 37(1) — as well as the date on which and the city and country in which the determination was made and whether the determination resulted in a decision or removal order referred to in subsection 24.1(1).

Non-application of paragraphs 10(2)(b) and (c)

(2) Paragraphs 10(2)(b) and (c) do not apply to an application under subsection 42.1(1) of the Act.

Return of application

24.3 If the requirements of sections 24.1 and 24.2 are not met, the application is not accepted for processing and the application and all documents submitted in support of it are returned to the applicant.

Closing of file

24.4 The processing of the application is discontinued and the applicant's file is closed if

(a) a notice has been sent to the applicant requiring that they confirm their intention to proceed with their application and the applicant fails to respond to the notice within 60 calendar days after the day on which it was sent;

(b) the applicant has acquired permanent resident status;

(c) the applicant withdraws their application in writing; or

(d) the applicant has, since making their application, filed an application for leave to commence an application for judicial review under subsection 72(1) of the Act with respect to a decision or removal order referred to in subsection 24.1(1).

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date du début et de la fin de chaque période de fréquentation pour chacun des établissements;

e) son expérience de travail à compter de l'âge de seize ans, y compris le travail bénévole, la date du début et de la fin de chaque période, le titre du poste, la description du travail, l'adresse et le nom de l'employeur;

f) l'historique de ses déplacements à l'étranger depuis l'âge de seize ans, y compris les pays visités, la raison de la visite, la date et la durée de la visite ainsi que tout statut d'immigration demandé à ces pays ou octroyé par ceux-ci;

g) la disposition de la Loi — article 34, alinéas 35(1)b) ou c) ou paragraphe 37(1) — au titre de laquelle il est interdit de territoire, la date, la ville et le pays où l'interdiction a été constatée et le fait que le constat a conduit ou non à la prise de décision ou de la mesure de renvoi visée au paragraphe 24.1(1).

Non-application des alinéas 10(2)b) et c)

(2) Les alinéas 10(2)b) et c) ne s'appliquent pas à la demande visée au paragraphe 42.1(1) de la Loi.

Retour de la demande

24.3 Si les exigences prévues aux articles 24.1 et 24.2 ne sont pas respectées, la demande n'est pas traité et elle est retournée au demandeur accompagnée de tous les documents soumis à l'appui de celle-ci.

Fermeture du dossier

24.4 La demande cesse d'être traitée et le dossier du demandeur est fermé dans les cas suivants :

a) un avis a été envoyé au demandeur exigeant la confirmation de son intention de maintenir la demande, et ce dernier a omis d'y répondre dans les soixante jours civils suivant l'envoi de cet avis;

b) le demandeur a acquis le statut de résident permanent;

c) le demandeur retire sa demande par écrit;

d) le demandeur a, depuis qu'il a présenté sa demande, déposé une demande d'autorisation de contrôle judiciaire en application du paragraphe 72(1) de la Loi à l'égard d'une décision ou d'une mesure de renvoi visée au paragraphe 24.1(1).

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Change in information

24.5 The applicant must notify the Minister without delay of any change in their address, telephone number or email address and, if the applicant is represented, the address, telephone number, fax number or email address of their representative.

Transitional Provisions

4 (1) Section 24.5 of the *Immigration and Refugee Protection Regulations*, as enacted by section 3, applies to applications that were made under subsection 42.1(1) of the *Immigration and Refugee Protection Act* before the coming into force of this subsection.

(2) Section 24.5 of the *Immigration and Refugee Protection Regulations*, as enacted by section 3, applies, with any necessary modifications, to any requests that were submitted to the Minister of Public Safety and Emergency Preparedness in respect of the exception described in subsection 34(2) or 35(2) or paragraph 37(2)(a) of the *Immigration and Refugee Protection Act*, as each of those provisions read before the coming into force of sections 13 to 15 and 18 of the *Faster Removal of Foreign Criminals Act*, chapter 16 of the Statutes of Canada, 2013.

5 (1) In the case of an application that was made under subsection 42.1(1) of the *Immigration and Refugee Protection Act* before the coming into force of this subsection, the processing of the application is discontinued and the applicant's file is closed, on or after the day on which this subsection comes into force, if any of the conditions referred to in paragraphs 24.4(a) to (c) of the *Immigration and Refugee Protection Regulations*, as enacted by section 3, applies or if the following conditions apply:

(a) it is determined that the applicant is not inadmissible under each of section 34, paragraph 35(1)(b), paragraph 35(1)(c) and subsection 37(1) of the *Immigration and Refugee Protection Act* following an examination — or a hearing by the Immigration Division or, in the case of an appeal, the Immigration Appeal Division — that takes place after the application under subsection 42.1(1) of that Act is made, but the applicant has not acquired permanent resident status; and

(b) an application under subsection 72(1) of the *Immigration and Refugee Protection Act* for

Changement aux renseignements

24.5 Le demandeur est tenu d'informer immédiatement le ministre de tout changement d'adresse, de numéro de téléphone ou d'adresse électronique et, s'il est représenté, d'adresse, de numéro de téléphone, de numéro de télécopieur ou d'adresse électronique de son représentant.

Dispositions transitoires

4 (1) L'article 24.5 du *Règlement sur l'immigration et la protection des réfugiés*, édicté par l'article 3, s'applique aux demandes présentées sous le régime du paragraphe 42.1(1) de la *Loi sur l'immigration et la protection des réfugiés* avant l'entrée en vigueur du présent paragraphe.

(2) L'article 24.5 du *Règlement sur l'immigration et la protection des réfugiés*, édicté par l'article 3, s'applique, avec les adaptations nécessaires, à toute demande soumise au ministre de la Sécurité publique et de la Protection civile concernant l'exception visée aux paragraphes 34(2) ou 35(2) ou à l'alinéa 37(2)a) de la *Loi sur l'immigration et la protection des réfugiés*, dans leur version antérieure à l'entrée en vigueur des articles 13 à 15 et 18 de la *Loi accélérant le renvoi de criminels étrangers*, chapitre 16 des Lois du Canada (2013).

5 (1) Dans le cas d'une demande présentée sous le régime du paragraphe 42.1(1) de la *Loi sur l'immigration et la protection des réfugiés* avant l'entrée en vigueur du présent paragraphe, la demande cesse d'être traitée et le dossier du demandeur est fermé, à la date d'entrée en vigueur du présent paragraphe ou après cette date, si l'une des conditions décrites aux alinéas 24.4a) à c) du *Règlement sur l'immigration et la protection des réfugiés*, édictés par l'article 3, est remplie ou si les conditions suivantes s'appliquent :

a) s'il est décidé que le demandeur qui n'a pas obtenu le statut de résident permanent n'est pas interdit de territoire pour l'un des motifs visés à l'article 34, aux alinéas 35(1)b) ou c) ou au paragraphe 37(1) de la *Loi sur l'immigration et la protection des réfugiés* à la suite d'un contrôle — ou d'une enquête de la Section de l'immigration ou, dans le cas d'un appel, de la Section d'appel de l'immigration — survenu après la présentation de la demande au titre du paragraphe 42.1(1) de cette loi;

b) une demande d'autorisation de contrôle judiciaire de la décision visée à l'alinéa a) en

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leave to commence an application for judicial review with respect to the determination referred to in paragraph (a)

- (i) is not filed within the time limit; or
- (ii) is filed within the time limit and any of the following circumstances occurs:
 - (A) the Federal Court refuses the application for leave,
 - (B) if the application for leave is granted, the Federal Court refuses the application for judicial review and no question is certified for the Federal Court of Appeal,
 - (C) if a question is certified for the Federal Court of Appeal,
 - (I) an appeal to the Federal Court of Appeal is not filed within the time limit, or
 - (II) the Federal Court of Appeal dismisses the appeal and an application to the Supreme Court of Canada for leave to appeal from that decision is not filed within the time limit,
 - (D) if an application is filed with the Supreme Court of Canada for leave to appeal,
 - (I) the application is refused,
 - (II) the application is granted and an appeal is not filed within the time limit, or
 - (III) the Supreme Court of Canada dismisses the appeal, or
 - (E) the application for leave to commence an application for judicial review, application for judicial review, appeal to the Federal Court of Appeal, application to the Supreme Court of Canada for leave to appeal or appeal to the Supreme Court of Canada, as the case may be, is discontinued.

(2) Subsection (1) applies, with any necessary modifications, to any requests that were submitted to the Minister of Public Safety and Emergency Preparedness in respect of the exception described in subsection 34(2) or 35(2) or paragraph 37(2)(a) of the *Immigration and Refugee Protection Act*.

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application du paragraphe 72(1) de la *Loi sur l'immigration et la protection des réfugiés*, :

- (i) soit, n'est pas déposée dans le délai prévu,
- (ii) soit, est déposé dans le délai prévu et l'un des événements ci-après survient :
 - (A) la demande d'autorisation, à la Cour fédérale est rejetée,
 - (B) la demande d'autorisation est accueillie et la demande de contrôle judiciaire est rejetée par la Cour fédérale sans qu'une question soit certifiée pour la Cour d'appel fédérale,
 - (C) dans le cas où une question est certifiée pour la Cour d'appel fédérale :
 - (I) soit le délai d'appel à la Cour d'appel fédérale expire sans qu'un appel soit interjeté,
 - (II) soit l'appel est rejeté par la Cour d'appel fédérale et le délai de dépôt d'une demande d'autorisation d'en appeler à la Cour suprême du Canada expire sans qu'une demande soit déposée,
 - (D) dans le cas où une demande d'autorisation d'interjeter appel est déposée à la Cour suprême du Canada :
 - (I) soit la demande est rejetée,
 - (II) soit la demande est accueillie et l'appel n'est pas interjeté dans le délai imparti,
 - (III) soit la Cour suprême du Canada rejette l'appel,
 - (E) la demande d'autorisation de contrôle judiciaire, la demande de contrôle judiciaire, l'appel en Cour d'appel fédérale ou la demande d'autorisation d'appel ou de l'appel en Cour suprême du Canada fait l'objet d'un désistement, selon le cas.
- (2) Le paragraphe (1) s'applique, avec les adaptations nécessaires, à toute demande soumise au ministre de la Sécurité publique et de la Protection civile concernant l'exception visée aux paragraphes 34(2) ou 35(2) ou à l'alinéa 37(2)a) de la *Loi sur l'immigration et la protection des réfugiés*.

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Protection Act, as each of those provisions read before the coming into force of sections 13 to 15 and 18 of the *Faster Removal of Foreign Criminals Act*, chapter 16 of the Statutes of Canada, 2013.

réfugiés, dans leur version antérieure à l'entrée en vigueur des articles 13 à 15 et 18 de la *Loi accélérant le renvoi de criminels étrangers*, chapitre 16 des Lois du Canada (2013).

Coming into Force

6 These Regulations come into force on the day on which they are registered.

Entrée en vigueur

6 Le présent règlement entre en vigueur à la date de son enregistrement.

Calma, Gordan

From: Calma, Gordan
Sent: February 28, 2018 02:11 PM
To: Guthrie, Ryan
Cc: Bosse, Julie
Subject: Ministerial Relief 101
Attachments: Min_deck_MR_101_Final_with speaking points_13feb2016.pptx; MRU_Min_deck_Membership_in_MR_&_Inadmissibility post VPO.pptx; 2016 MR FAQs - FINAL 29jan2016.docx

Good day, Ryan.

Welcome to the wonderful world of Ministerial relief (MR). We thought it would be a good idea to give you a head start by providing you with some background information on the program, on which we are going to test you on your first day here. Ok, ok,...there won't be any testing required, but I hope you find the material useful. If you have any questions or concerns, please do not hesitate to let me know. You will have a lot of time to continue digesting this information (and much more) once you officially join us. ☺

MR BACKGROUND

As you may be aware, MR is a discretionary authority, and one of the few under the IRPA that is non-delegable, exercised by the Minister of Public Safety and Emergency Preparedness (the Minister) to override the most serious inadmissibilities under the IRPA:

- Security (A34);
- Certain provisions relating to international or human rights violations (A35 – paragraphs b) and c) only);
- Organized criminality (A37).

The courts have confirmed that MR is meant to be “exceptional”, and the onus is always on the applicant to demonstrate that the granting of relief is not against the national interest, rather than on the Minister to prove otherwise. Unlike subsection 25(1) of the IRPA, in which the Minister of Immigration, Refugees and Citizenship may exempt a foreign national from a requirement of the Act on humanitarian and compassionate (H&C) grounds, MR under IRPA subsection 42.1(1) is a declaration by the Public Safety Minister that the grounds which would normally constitute inadmissibility do not do so in the individual’s case. In other words, while a grant of H&C overcomes inadmissibility, MR removes it. If there are no other inadmissibilities, MR, when granted, clears the path for a foreign national to regularize their status in Canada (e.g., permanent residence).

The MR process contends with certain legal and political concepts that are in flux – terms like “national interest”, “public safety” or “national security” have never been strictly defined, either in legislation or by the courts, and continue to be open to interpretation and redefinition. In recent years, shifting and at times contradictory court interpretations up to the level of the Supreme Court of Canada (SCC) have greatly affected the MR process. These different court decisions have prescribed different factors that the Minister was required to assess, and how. A little bit of this historical context:

- Prior to the March 2011 Federal Court of Appeal (FCA) ruling in *Agraira*, the Minister was required to balance a broad range of competing factors, including those related to national security and public safety (NSPS), but also H&C elements, and only deny relief in those cases where there was a “net detriment” to Canada’s national interest. The FCA decision, however, limited the factors that the Minister was required to consider when determining whether to grant or deny relief, to only those related to NSPS. The legal test and approach

generated by the FCA decision resulted in a significant reduction in the length, complexity and processing time of MR applications. For example, at the time, average recommendations were reduced in length to approximately 10 – 15 pages. You can familiarize yourself with the FCA *Agraira* decision here: <http://decisions.fct-cf.gc.ca/fca-caf/decisions/en/item/37114/index.do>.

- On June 12, 2012, the Priorities and Planning Committee ratified the Memorandum to Cabinet entitled *Modernizing Canada's Inadmissibility Provisions to Strengthen the Integrity of the Immigration Program and Expedite the Removal of Serious Criminals*. The associated *Faster Removal of Foreign Criminals Act* (Bill C-43) received Royal Assent on June 19, 2013. For MR purposes, Bill C-43 codified the FCA *Agraira* "legal test", enshrining it in law and limiting the factors that the Minister is required to consider to those related to NSPS. With the coming-into-force of Bill C-43, the separate MR provisions under subsections 34(2), 35(2), and 37(2) of the IRPA were repealed and replaced by section 42.1.
- Almost simultaneously, however, on June 20, 2013, the SCC ruling in *Agraira* considerably expanded the test the Minister must apply when determining whether to grant or deny relief, although the Supreme Court agreed that the predominant considerations for assessing MR applications are indeed related to NSPS. In addition to factoring in NSPS elements as part of his decision, the SCC required the Minister to also consider what it referred to as "personal factors", presented by applicants, which might be relevant to the determination of what is in the national interest. The 2013 SCC *Agraira* ruling thus created a demanding legal environment, broadened the scope and complexity of the relief assessment, in some cases effectively quadrupled the length of MR recommendations, and further contributed to an already considerable backlog of aging MR cases (you will learn much more about the MR backlog once you officially join us). You can familiarize yourself with the SCC *Agraira* decision here: <http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/13137/index.do?r=AAAAAQAHYWdyYWlyYQE>.
- Following the SCC ruling in *Agraira*, and with a view to reducing an aging MR inventory which is prone to litigation, a decision was made to assess all applications, which were in the inventory at the coming-into-force of Bill C-43, under the old law (former subsections 34(2), 35(2), and 37(2) of the IRPA) that now reflects the SCC's interpretation of national interest. MR applications submitted after June 19, 2013 will eventually be assessed under the new legislation (Bill C-43 – subsection 42.1(1) of the IRPA). One of the impending challenges for the program will be finding ways to grapple with the impact of the SCC *Agraira* decision on the Bill C-43 amendments to IRPA MR provisions, but we will cross that bridge when we get there.
- More recently, on March 10, 2017, amendments were made to the *Immigration and Refugee Protection Regulations* (IRPR), designed to bring greater clarity, consistency and control to the MR application process, case intake, and inventory management. Prior to the coming-into-force of these regulations, there was no formalized application framework for MR, and no formal criteria establishing when a person may apply for relief. Foreign nationals typically requested relief by providing documentary submissions with varying degrees of relevance to a decision on whether or not to grant relief. The new regulations established procedures for MR applications, including:
 - How to submit an MR request (via a new mandatory Application form);
 - When an application may be submitted (e.g., once a final inadmissibility determination has been made);
 - When a case may be closed (e.g., if a person is found to be admissible, has obtained PR status, or repeatedly failed to respond to the CBSA).

The new regulations have already greatly helped the CBSA reduce the backlog of cases; allowed the Agency to efficiently triage new MR applications; and eliminated the need to be processing, and the Minister to be rendering decisions on, cases which do not require MR (e.g., applicants who have been granted permanent resident status by IRCC).

Pasted below are the links to some useful MR regs-related products that we published in 2017:

- New MR Application form available on the external CBSA website: <https://www.cbsa-asfc.gc.ca/publications/forms-formulaires/bsf766-17-eng.pdf>
- New MR Guide that assists applicants in applying for MR, also published on the external CBSA website: <https://www.cbsa-asfc.gc.ca/travel-voyage/gadr-gddd-eng.html>
- CBSA OB (PRG-2017-11):

LITIGATION

While the MRU still grapples with its aging and highly litigated inventory, recent Federal Court (FC) rulings are a promising sign: we now have a post-SCC *Agraira* 100% success rate vs. past rates as low as 20%. This means that the current program direction may be at last legally sustainable (this is not to say that we are not facing novel challenges). This level of essentially unconditional support from the FC is unprecedented in the MR program. MR decisions used to be routinely overturned by the courts. In 2007 and 2008, for instance, when recommendations were much more abbreviated, 80% of MR decisions which were judicially reviewed were overturned and the FC ordered the Minister to re-determine them.

As you will note, in upholding the Minister's recent decisions, the court commented favourably upon the decisions' justification, transparency, intelligibility and defensibleness in respect of the facts and law. The judges concluded in all cases, even one in which the court's comments suggested disagreement with the Minister's decision, that the Minister had appropriately applied the approach established in *Agraira* and had demonstrably taken into account all relevant matters. Therefore, the decisions were found to be reasonable and were upheld.

You will have an opportunity to read some of our more recent recommendations (including MR decisions upheld by the FC) once you join the unit. For now, I am providing you with the links to some of the publicly available FC decisions upholding the Minister's post-SCC *Agraira* decisions to deny relief.

- *Sellathurai v Canada*, 2015 FC 1264: <http://canlii.ca/t/gm3v4>
- *Afridi v Canada*, 2015 FC 1299: <http://canlii.ca/t/gm907>
- *NK v Canada*, 2015 FC 1377: <http://canlii.ca/t/gmj6s>
- *Hameed v Canada*, 2015 FC 1353: <http://canlii.ca/t/gmp04>
- *Siddique v Canada*, 2016 FC 192: <http://canlii.ca/t/gnj2g>
- *Puvanenthiram v Canada*, 2016 FC 587: <http://canlii.ca/t/grvwx>
- *Naeem v Canada*, 2016 FC 1285: <http://canlii.ca/t/gvrc8>
- *Rosales Steves v Canada*, 2017 FC 247: <http://canlii.ca/t/h0ppc>

Of note, we have recently had an unfavourable FC decision in a case where an applicant requested a writ of *mandamus* from the FC to compel the Minister to render a decision on his outstanding MR application. In that decision, the ruling judge commented negatively on the MRU's processing timelines. That decision is currently not available online owing to a recent amendment made to it, but, for now, you can read a CBC article on it:

<http://www.cbc.ca/news/politics/immigration-public-safety-minister-decisions-court-1.4046314>.

If you have more free time, you may wish to go through the following court decisions, all of which have had some impact on how we assess certain types of issues or arguments in the MR context:

- SCC decision in *Ezokola* (2013): <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/13184/index.do> (re: complicity in human or international rights violations in the context of refugee exclusion under article 1F(a) of the UN Convention).
- FCA decision in *Najafi* (2014): <http://reports.fja.gc.ca/eng/2015/2014fca262.html> (re: the issue of self-determination in relation to the application of paragraph 34(1)(b) and the MR provisions under the IRPA).

- FCA decision in *Kanagendren* (2015): <http://reports.fja-cmf.gc.ca/eng/2016/2015fca86.html> (re: the impact of the 2013 SCC decision in *Ezakola* on the legal test for assessing membership in a terrorist organization).

ADDITIONAL ATTACHMENTS

I am also attaching the following documents for your perusal, which I trust you will find useful:

MR 101 Deck – created for the purpose of a briefing to the new Minister's staff. This is one of the draft versions that is a bit more detailed than the very high level version that was used in the briefing.

MR Membership Deck – also created for the purpose of a recent MO briefing. It may provide some useful tips on how we assess our membership cases. Slide 10 provides a side-by-side comparison of two recent MR recommendations – one was to deny relief, the other one was to grant relief.

Frequently Asked Questions (FAQs) – this is a useful document that was also created for the purpose of a recent MO briefing. It answers some FAQs relating to MR and also serves as a guide that contextualizes the program within the immigration continuum, further explaining how we apply the post-SCC *Agraira* legal test and how we address certain arguments in the MR context.

I hope you find this helpful. We will talk soon. ☺

Cheers!
Gordan

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Canada Border Services Agency Agence des services frontaliers du Canada

FINAL
February 13, 2016



PROTECTION

INTEGRITY

SERVICE

Ministerial Relief

Briefing to the Minister

February 23, 2016



PROTECTION

INTÉGRITÉ

SERVICE

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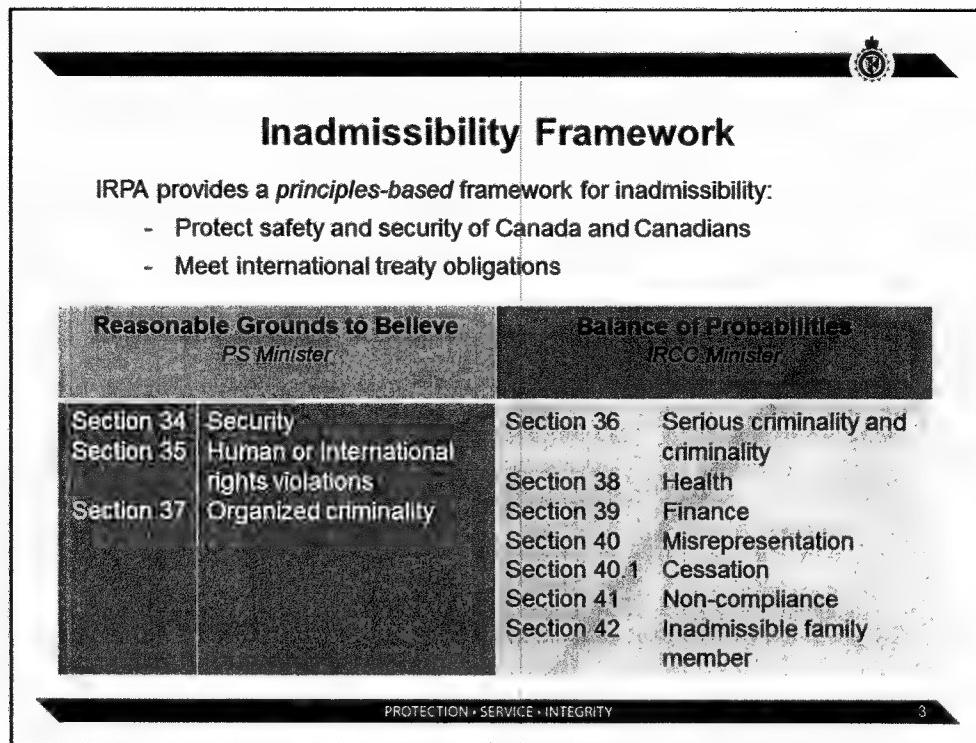


Purpose

- To provide you with an overview of the Ministerial Relief authority

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2



- The enforcement of inadmissibility under IRPA is guided by a principles-based framework.
- To be admissible, the same criteria apply, whether you seek entry to Canada as a visitor, to work or to permanently live.
- The criteria speak to the safety and security of Canada and serve to uphold Canada's obligations under international treaties (such as the UN refugee convention).
- As an example:
 - membership in a terrorist group (e.g. LTTE) is a ground for inadmissibility;
 - time does not remove your inadmissibility;
 - nor does your role (youth wing, pamphleteer);
 - nor does the ultimate objectives of the group matter – for example, the regime you had sought to subvert may be a corrupt dictatorship and your objectives democratic but if force/subversion is used you are inadmissible under IRPA.
- The threshold to establish inadmissibility is a lower standard than in a criminal court (which is "beyond a reasonable doubt"):
 - "Reasonable grounds to believe" for serious inadmissibilities under the

responsibility of the PS Minister, and

- A slightly higher standard – “balance of probabilities” (greater than a 50% likelihood) for grounds of inadmissibility which fall under the IRCC Minister
- This threshold is a lower standard than in a criminal court (which is “beyond a reasonable doubt”)
- As such, the immigration legislation provides significant latitude to the government to render decisions which ensure the integrity and security of the immigration and refugee systems.



What is Ministerial Relief?

- Authority exercised only by the Minister of Public Safety to overcome inadmissibility under IRPA for:
 - security
 - human or international rights violations
 - organized criminality
- Ministerial relief (MR) is a recourse of last resort for the most serious inadmissibilities
- To grant relief, the PS Minister must be satisfied that relief is not against the national interest
 - Onus on the applicant to demonstrate that relief is not against the national interest
- When granted, MR clears the path for a foreign national to apply to IRCC to regularize their status in Canada (e.g., permanent residence)
- MR decisions are reviewable by the Federal Court (FC)
 - Most negative decisions are litigated

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- Authority exercised only by the Minister of Public Safety , and may not be delegated, to overcome the most serious inadmissibilities under IRPA for:
 - security
 - human or international rights violations
 - organized criminality
- Ministerial relief (MR) is a recourse of last resort that is available to individuals who seek to overcome these serious inadmissibilities.
- It is a safety valve to address disproportionate consequences of certain provisions of the IRPA inadmissibility regime which were intended to have broad application in order to protect Canadian security and values.
- In seeking relief, the onus is on the applicant to demonstrate their case by identifying the specific circumstances of their situation.
- CBSA provides a recommendation on whether to grant or deny relief. Only the PS Minister may decide whether relief is not against the national interest. I'll provide more information on how the national interest is defined further on in this presentation.
- When granted, MR clears the path for a foreign national to apply to IRCC to regularize their status in Canada, e.g., the person can apply to IRCC for temporary or permanent

resident status.

- MR decisions are reviewable by the Federal Court (FC) with most negative decisions litigated.

Background:

Section 34 Security: Includes espionage, subversion of governments, engaging in terrorism, being a danger to the security of Canada, engaging in acts of violence that might endanger persons in Canada, or being a member of an organization that engages in espionage, subversion or terrorism. The majority of MR cases are inadmissible for past and/or present membership in a terrorist organization; this does not require that the person committed these acts, only that the group did.

Section 35 Human or international rights violations: Includes senior officials from governments that Canada has designated as having engaged in terrorism, human rights violations or genocide, war crimes or crimes against humanity; or persons subject to international sanctions. Persons who have been directly involved or complicit in committing a war crime or crime against humanity are not eligible to apply for MR (IRPA 35(1)(a)).

Section 37 Organized criminality: Includes being a member of an organization that has engaged in a pattern of joint organized indictable criminal activity; or engaging in people smuggling, human trafficking or money laundering.

What Ministerial Relief is Not

- Not meant to reassess the inadmissibility finding of the Immigration and Refugee Board
- Does not delay removal or any other process (although applicants can separately request a deferral of removal to CBSA or the Court)
- The granting of Ministerial Relief does not change or provide status
- Supreme Court has ruled that relief is **not** an alternate recourse mechanism to assess humanitarian and compassionate considerations (H&C is Minister IRCC role)
- Not applicable to:
 - individuals directly involved or complicit in war crimes or crimes against humanity
 - criminal and other inadmissibilities (Minister IRCC role)

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- While an MR decision may consider the circumstances surrounding a person's inadmissibility, it must not reassess the inadmissibility finding itself.
- Instead, the Minister must be satisfied that relief is warranted despite the person meeting the test for inadmissibility.
- MR does not delay removal or any other process. The granting of Ministerial Relief does not change or provide status.
- A grant of MR also does not automatically confer status upon an applicant. Nor is it an alternate mechanism to have Humanitarian and Compassionate aspects considered.
- MR does not apply to persons directly involved or complicit in war crimes or crimes against humanity.
- It also does not apply to criminal and other inadmissibilities.
- Individuals seeking exemption from other inadmissibilities, including all forms of criminality other than organized crime, must apply to the IRCC Minister.



Ministerial Relief Process

- Inadmissible foreign national submits request (no formal application process: letter, verbal)
- Before presenting its recommendation to the Minister, the CBSA conducts due diligence by:
 - consulting partners (e.g. CSIS, RCMP, IRCC, DOJ)
 - reviewing refugee (from IRB) and inadmissibility decisions (from CBSA, IRB or CIC)
 - assessing consistency of the applicant's submissions and testimony
 - developing comprehensive organizational histories and backgrounds in cases involving 'membership' through info from open sources and possibly OGDS such as GAC, IRB, CSIS, RCMP, etc.
 - assessing and weighing applicant submissions
 - disclosing draft recommendations to applicant for comment
 - considering further submissions by applicant
- CBSA assesses all of the information in its possession to formulate a recommendation to the Minister for decision

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- A foreign national may make a request for MR directly to you or via the CBSA or IRCC.
- There is currently no prescribed format; even a verbal request during an interview constitutes an "application" for relief.
- Given that the onus is on the applicant to convince the Minister that MR is warranted, generally, extensive submissions are received - hundreds or even thousands of pages, many of which have varying degrees of relevance to the current legal test but nonetheless must be reviewed.
- Submissions include all personal and legal arguments supported by documentary evidence: country conditions; court documents; testimonials and statements; references.
- Before presenting its recommendation to the Minister, the CBSA conducts due diligence by:
 - consulting partners (i.e. CSIS, RCMP, IRCC, DOJ)
 - reviewing refugee (from IRB) and inadmissibility decisions (from CBSA, IRB or IRCC)
 - assessing consistency of the applicant's submissions and testimony
 - developing comprehensive organizational histories and backgrounds in cases

- involving 'membership' through info from open sources and possibly OGDS such as GAC, IRB, CSIS, RCMP, etc.
- Meticulously assessing and weighing applicant submissions
 - disclosing draft recommendations to applicant for comment
 - considering further submissions by applicant
- The expectation of the courts is that the Minister will demonstrate that he has carefully taken into consideration all of the information within these materials that may be relevant to an assessment of relief.
 - In the past five calendar years, the Minister rendered 61 MR decisions, 56 of which were denials of relief. Of the 61 decisions, the Minister accepted the CBSA's recommendation in 58 cases. Only three decisions were contrary to the CBSA's recommendation.

Denied (Calendar years)

2015: **16**

2014: **2**

2013: **6**

2012: **29**

2011: **3**

Total: **56**

Granted (Calendar years)

2015: **0**

2014: **0**

2013: **1**

2012: **2**

2011: **2**

Total: **5**

Number of CBSA Recommendations Accepted By Minister

2015: **16**

2014: **2**

2013: **6**

2012: **29**

2011: **5**

Total: **58**

Number of CBSA Recommendations Not Accepted By Minister

2015: 0

2014: 0

2013: 1

2012: 2

2011: 0

Total: 3



Legislation and Case Law

- June 2013 Supreme Court decision (*Agraira*):
 - affirmed that security and safety elements are “predominant” considerations
 - Minister must also assess “personal factors” that may be relevant to national interest
- IRPA amendments in 2013:
 - defined “national interest” considerations as **national security and public safety**
 - provided authority to prescribe relief process in regulations
- All cases without Ministerial decision and 17 cases decided by the Minister and under court scrutiny pre-SCC have had to be re-assessed against the Supreme Court decision - more complex to satisfy the new judicial test
- Early success in the interpretation and application of the new Supreme Court decision:
 - 18 decisions were rendered by the Minister - 12 were litigated:
 - FC upheld six (6) of the Minister’s decisions
 - FC refused leave in two (2) challenges
 - Hearings or rulings are pending in the remaining four (4)

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- June 2013 Supreme Court decision (*Agraira*):
 - affirmed that security and safety elements are “predominant” considerations
 - Minister must also assess “personal factors” that may be relevant to national interest
- While “national interest” has never been defined, the *Agraira* SCC decision affirmed that national security and public safety (NSPS) considerations were “predominant” in rendering an MR decision.
- The ruling required the Minister to also consider undefined “personal factors” presented by MR applicants that *may* be relevant to the assessment of national interest.
- All cases without Ministerial decision - and 17 cases decided by the Minister and under court scrutiny at the time the SCC decision was released (June 19, 2013) - have had to be assessed or re-assessed against the Supreme Court decision.
- Thus far, the FC has upheld all of the Minister’s post-SCC decisions and strongly endorsed the CBSA’s assessments.
- The recent successes at the FC are promising and suggest that the current program direction may be legally sustainable (100% success rate vs. past rates as low as 20%):
 - 18 decisions were rendered by the Minister - 12 were litigated
 - So far, FC has upheld eight (8) of the Minister’s decisions: two (2) were denied leave to appeal and six (6) were upheld after judicial review



Inventory Management

- 300 cases
 - 241 (approx. 80 percent) security cases
 - 21 (approx. 7 percent) human rights violations cases
 - 38 (approx. 13 percent) organized criminality cases
 - 105 cases inherited from IRCC when CBSA was created; 43 remain in the inventory
 - Past MR requests could come from applicants or through an IRCC recommendation, even with no admissibility finding (sometimes resulting in large volume spikes)
 - Since May 2013 the practice of IRCC referrals with no admissibility decision has ceased
- 14 new requests per year on average
- Aging inventory is a significant litigation challenge
 - For fairness reasons and to minimize litigation risk, older files take precedence
 - Assessments are complex: average 9 months per file from start to delivery to the Minister

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- The inventory currently stands at 300 cases, the vast majority of which are security cases, usually inadmissible for membership in a terrorist organization.
- 43 of these cases remain from the 105 that were inherited from IRCC in 2003 when the CBSA was created. Past MR requests could come from applicants or through an IRCC recommendation.
- In 2013, IRCC officers were instructed to no longer hold immigration files in abeyance pending an MR decision. Instead, they are to ensure that an admissibility decision is rendered and that the immigration application is finalized.
- CBSA receives 14 new requests per year on average. Approximately 14 Ministerial decisions are rendered per year, essentially maintaining the inventory.
- The average age of inventory cases is 6.59 years. Aging inventory is a significant litigation challenge.
- For fairness reasons and to minimize litigation risk, older files take precedence
- Assessments are complex: processing times average 6 to 9 months per file from start to delivery to the Minister. Approximately one-third of this time is devoted to the disclosure process in which the applicant is provided with an opportunity to review and respond to a draft recommendation. The CBSA must address any new applicant

submissions prior to forwarding a final version to the Minister.

- Parallel with the 2013 IRPA amendments, MR disclosure and approval processes were streamlined by:
 - re-delegating approval for disclosure of drafts to applicants from the CBSA President to the Director General (minus ≈ 24 days);
 - restricting Legal Services' review to legally-complex or high litigation risk files (minus ≈ 38 days); and
 - eliminating regional CBSA and IRCC offices from the disclosure process (minus ≈ 42 days),
 - for a total reduction of 104 days.



Current Status

- CBSA is finalizing 17 Ministerial Relief recommendations for your decision in 2016:
 - cases will begin to be presented for your consideration in February 2016
 - two upcoming cases are time-sensitive and subject of negotiated timelines to avoid a court order
- CBSA has drafted a proposed framework to formalize the Ministerial Relief application process to:
 - establish when an application may be submitted (e.g., once a final inadmissibility determination has been made)
 - establish when a case may be closed (e.g., once a person has obtained PR status or repeatedly failed to respond to the CBSA)

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- CBSA is finalizing 17 Ministerial Relief recommendations for your decision in 2016:
 - We will begin to route cases for your consideration in February 2016
 - Two upcoming cases are time-sensitive and subject of negotiated timelines to avoid a court order
- As highlighted earlier, at the moment, there are no parameters regarding when or how foreign nationals may request relief: it could be through a verbal request to an IRCC or CBSA officer, or a mention in correspondence to you or the CBSA.
- To address this, CBSA has drafted a proposed regulatory framework to formalize the Ministerial Relief application process to:
 - establish when an application may be submitted (e.g., once a final inadmissibility determination has been made); and
 - establish when a case may be closed (e.g., once a person has obtained PR status or repeatedly failed to respond to the CBSA).
- This regulatory package will be submitted for your concurrence in early April 2016, which the intention of seeking Treasury Board approval on May 5, 2016.

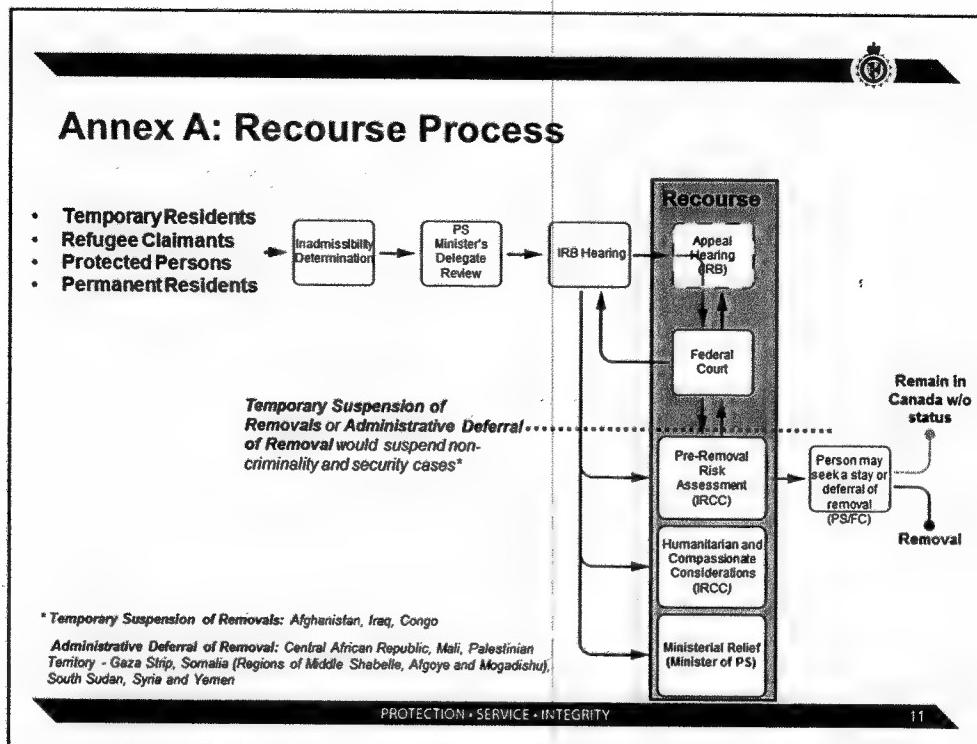


Next Steps

- Seek your views on the way forward for the use of Ministerial Relief

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Recourse Process

Here is a high level overview of the decision flow and recourse options for someone who is in Canada and inadmissible.

Depending on the person's status – permanent resident, protected person or temporary resident (visitor, student, worker) – the range of inadmissibilities and levels of recourse differ:

- Protected Persons can only be found inadmissible for:
 - Security
 - Human and international rights violations
 - All criminality (if not yet a permanent resident)
- Permanent Residents can only be found inadmissible for:
 - Security
 - Human and international rights violations
 - Serious criminality
 - Organized criminality
 - Misrepresentation
 - Non-compliance with residency obligation

Regardless of the person's status, Ministerial Relief is only available for:

- Security
- Human and international rights violations (exception: those having committed or been complicit in genocide, war crimes or crimes against humanity are barred from MR)
- Organized criminality

Once there is a final determination of inadmissibility (by the IRB and/or the Federal Court), the person becomes subject to removal.

At this stage, the *individual* recourse options are:

Temporary (person remains in Canada with no status):

- Pre-Removal Risk Assessment (PRRA) identifies risk of return – IRCC
- Stay or Deferral of Removal – Federal Court, PS Minister or Minister's delegate/CBSA officer (includes UN interim measures request)

Permanent (paves the way to PR status):

- Humanitarian and Compassionate (H&C) exemption – IRCC
- Ministerial Relief (MR) – PS Minister only

The *group** recourse options are:

Temporary (person remains in Canada with no status):

- Temporary Suspension of Removals (TSR) - currently in place for Afghanistan, Iraq, Congo
- Administrative Deferral of Removal (ADR) - currently in place for Central African Republic, Mali, Palestinian Territory - Gaza Strip, Somalia [regions of Middle Shabelle, Afgoye and Mogadishu], South Sudan, Syria and Yemen

Persons inadmissible on criminality and security grounds are removable despite the existence of a TSR or ADR. In all cases, once individual or country circumstances change (e.g., conditions normalize and the interim suspension of removals is lifted), a temporary recourse may no longer apply and individuals may be subject to removal at that time. However, all of these "temporary" options may be (and often are) of a long duration.

- * TSR/ADR – interim suspensions of removals to certain countries due to a generalized risk to a population, such as an armed conflict or major environmental disaster.

Annex B: Recourse Mechanisms

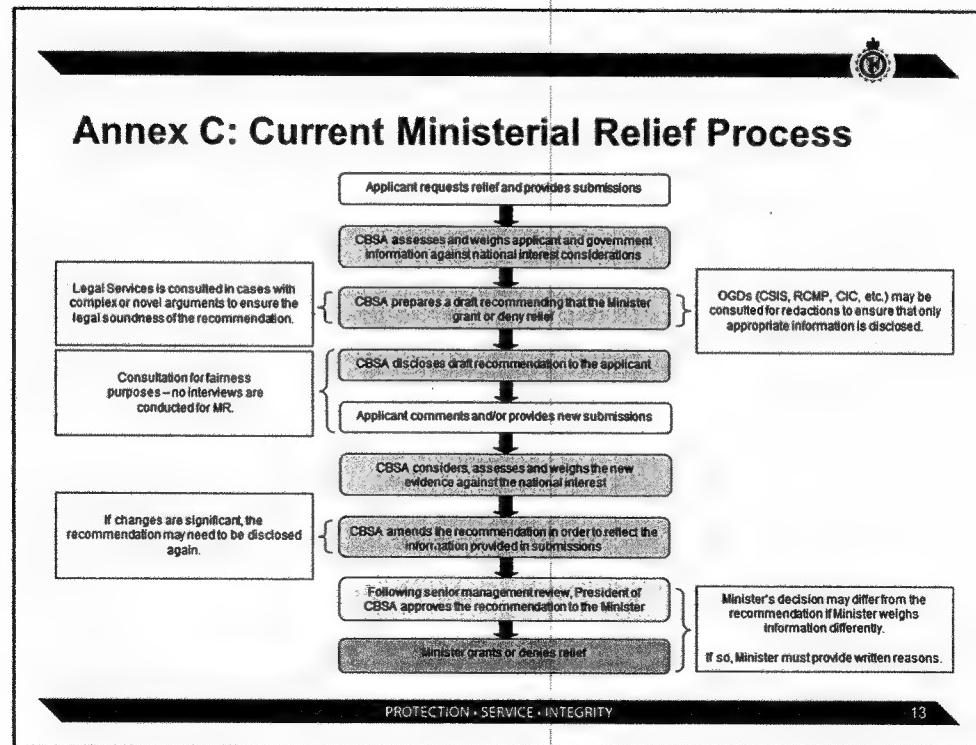
Mechanism	Who can apply	Decision Maker	Outcome
Humanitarian and Compassionate considerations (Permanent Residence)	Any persons who: • Are inadmissible • Do not meet requirements of IRPA • Except those inadmissible for security, organized criminality, human and international rights violations	IRCC Delegate	Person becomes a permanent resident.
Pre Removal Risk Assessment (PRRA)	Persons under removal: • failed refugee claimants are barred from applying for one year • failed refugee claimants from designated countries of origin are barred for three years	IRCC Delegate	Person becomes a protected person and may be eligible for Permanent Residence
Limited PRRA	Persons under removal: • serious inadmissibility	IRCC Delegate	Person does not get protected person status. Removal is stayed until the risk is no longer applicable. CBSA can ask IRCC for a Danger Opinion.
Danger Opinion	A Protected Person cannot be removed from Canada to a country where they would be at risk unless a danger opinion has been granted	IRCC Delegate	Protected Person is a danger to the public or the person should not be allowed to remain in Canada on the basis of their danger to the security of Canada Person is removed from Canada
Ministerial Relief	Persons inadmissible for: security, organized criminality, senior officials in designated regimes, international sanctions	Minister of PS (non-delegate)	Person is no longer inadmissible on those grounds Note: persons who committed or were complicit in war crimes cannot apply for or be granted relief
Stay of Removal	Persons under an enforceable removal order	Federal Court, Minister of PS, PS Delegate	Temporary measure to suspend a removal It does not change or provide status

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Recourse Mechanisms

[SEE SLIDE CHART]



Current Ministerial Relief Process

[REFER TO DIAGRAM ON SLIDE]

- CBSA Ministerial Relief Unit (MRU) receives MR request and applicant submissions.
- MRU analysts compile data on the applicant from:
 - enforcement/immigration systems (FOSS, NCMS, GCMS, STS, and CPIC); and,
 - CBSA/IRCC/IRB hardcopy records from immigration and enforcement examinations or investigations:
 - TRV, PRV, refugee applications
 - inadmissibility and security reports, admissibility hearings
 - litigation records; etc.
- Information (potentially thousands of pages) is reviewed and assessed against the national interest in accordance with the SCC *Agraira* legal test.
- MRU prepares a draft recommendation which may involve:
 - Possible external consultations: CSIS, IRCC and the RCMP
 - Possible internal consultations: NSSD, Danger Assessment Unit
 - Possible DOJ review: novel or complex issues or high litigation risk

- Mandatory: approval to disclose from CBSA senior management
- Draft recommendation and all associated attachments are disclosed to the applicant, ensuring that they are fully aware of what information will be considered by the Minister and they have had an opportunity to have their concerns fully addressed. The applicant has 60 days in which to make further submissions.
- New submissions are evaluated against the national interest test. If they significantly alter the CBSA's analysis, the recommendation may be re-disclosed to the applicant.
- The final recommendation is forwarded to the CBSA President for signature and subsequent delivery to the Minister for decision. This entire process could take 6-9 months for a straightforward case.
- The Minister is asked to either adopt the CBSA's recommendation to deny or grant relief, or provide his own reasons should his decision be contrary to the CBSA's recommendation. Once a decision is made by the Minister, the CBSA's MRU notifies the applicant of the decision.



Annex D: Examples of Recommendations

1. Recommendation to Deny Ministerial Relief	2. Recommendation to Grant Ministerial Relief
<p>Member of the Liberation Tigers of Tamil Eelam (LTTE) – terrorist organization</p>	<p>Member of the Eritrean Liberation Front (ELF) – terrorist organization</p>
<p><i>Considerations specific to membership in a particular entity:</i></p>	
<ul style="list-style-type: none">• Foreign national in Canada since 1990.• Voluntary member for 7 years, high level of commitment.• Received LTTE military and self-defence training.• High-ranking member and LTTE spokesperson.• Reported to commander responsible for deadly terrorist acts.• Advocated for and personally engaged in violence.• Implicated in massacre of 146 civilians.• Downplayed involvement and provided inconsistent statements.• No involvement with organization in Canada. <ul style="list-style-type: none">• Convention refugee living in Canada since 2002.• Voluntary member for 4 years.• Attended meetings, donated limited amounts of money and provided food to ELF fighters.• Limited knowledge of ELF structure and leadership.• Spoke out against violence and was plausibly unaware of ELF involvement in terrorism.• Supported ELF because of widespread human rights abuses committed against Eritreans.• No involvement with organization in Canada.	
<p><i>Personal factors considered:</i></p>	
<ul style="list-style-type: none">• No criminal record in Canada; crown witness for RCMP in a case involving the LTTE.• Established in Canada (married to a Canadian citizen).• Worked without required permit for 8 years.• PRRA application rejected by IRCC. <ul style="list-style-type: none">• No criminal record in Canada; established with numerous family members in Canada.• Assessed as credible; FC commented on suitability of her case for MR.• Isolated lifestyle; viewed ELF meetings as opportunity to socialize.	

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Ministerial Relief – Frequently Asked Questions

1. Why is Ministerial relief (MR) intended to be “exceptional”?

Parliament purposefully implemented an inadmissibility regime that captures not only individuals who have themselves committed or engaged in certain impermissible acts (e.g. terrorism, subversion by force, organized criminality, etc.), but also those who have been members of organizations or representatives of governments that have engaged in such acts. This means that an individual’s involvement with, or support of, such entities – past or present – is inherently incompatible with the values of Canadian society and the democratic spirit of the Canadian federation, and is thus contrary to our national interest. It is for this reason that a permanent exemption from these most serious inadmissibilities is, as acknowledged by the courts, meant to be an exception, and requires that an applicant must satisfy the Minister, *personally*, that the granting of relief would not be contrary to the national interest. Unlike the majority of Ministerial authorities under the *Immigration and Refugee Protection Act* (IRPA), MR is one of the few decisions that cannot be delegated to officials.

2. Many MR applicants seem to have never personally engaged in any sort of violence or criminal activity. Why would the granting of relief to these people be contrary to the national interest?

Most MR applicants are inadmissible for their membership in an organization (linked to terrorism, organized crime, etc.) or for having held senior positions in a designated regime (i.e., one responsible for committing acts of terrorism, war crimes or human rights violations). Many of these applicants claim to have never been personally engaged in violent or criminal activities during their membership or years of service. Whether or not the individual was directly involved in violence, terrorist acts or criminal activity on behalf of the entity they served, their participation in its other activities contributed to, enabled or supported the agenda or the operations of the organization/regime as a whole, and/or they may have exerted influence or benefitted from their association with the entity in question.

There are many factors considered in the MR context in relation to the nature and extent of an individual’s involvement with an organization/regime that go beyond direct involvement in violence or criminal activity. They include, but are not limited to: circumstances surrounding the individual’s affiliation with a group/government, including reasons for joining and whether it was voluntary; length of involvement; nature of deeds undertaken on behalf of the entity; whether the individual willingly participated in activities; whether they progressed through the ranks, exerted influence or benefited from the affiliation; and whether they disassociated from the entity at the first available opportunity; etc. MR also looks at whether the applicant has provided consistent and plausible information, throughout their statements given to Canadian officials and/or foreign authorities (if applicable), with respect to their association with the entity that has resulted in their inadmissibility.

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3. Many MR applicants claim that they were not official or formal members of organizations, simply supporters or sympathizers who engaged in low-level or minor activities. Why are they still considered members under the inadmissibility provisions?

The courts have ruled that, in the admissibility context, membership should be broadly defined. An individual is not required to be an “official”, “formal” or “card-carrying” member in order to meet the definition of membership under the IRPA. What is of relevance is that the person provided support, material or otherwise, to the organization with which they associated. Many individuals claiming to have been only supporters or sympathizers do, therefore, meet this criterion for “membership”.

It is important to note that determining membership in an organization and the corresponding finding of inadmissibility fall under the responsibility of the IRB and/or IRCC, and can be challenged through the courts. Therefore, an inadmissibility finding is not meant to be reviewed during an MR assessment; it is accepted as an established fact.

Whereas a finding of inadmissibility is related solely to whether there exist reasonable grounds to believe that a person was (or is) a member of an organization, MR looks at case-specific factors surrounding the nature, extent and quality of an individual’s membership, as well as NSPS and other national interest factors that go beyond membership, in order to determine whether there exist any special circumstances warranting relief, notwithstanding the applicant’s underlying inadmissibility. This is often a challenging task as it may be difficult to ascertain the true extent and nature of an applicant’s role and activities on behalf of the organization, given that MR is not an investigative process: the assessment is based solely on an applicant’s own admittance, unless other intelligence or evidence is available. This is why MR goes through painstaking efforts to assess the totality of an applicant’s statements given to government officials, security and law enforcement agencies, and/or quasi-judicial and judicial bodies (these may include immigration and refugee applications, interview notes, hearing transcripts, security reports, case memoranda from IRCC or CBSA officers, court testimonials, and other records), as well as the applicant’s own submissions toward their MR application. Discrepancies and inconsistencies found in an applicant’s accounts are identified, such as, for example, any belated attempts to minimize, downplay or contradict their previous, more incriminating statements given to Canadian officials. All of the above information is then carefully analyzed and ascribed weight in the context of the national interest assessment before a final conclusion to recommend denying or granting relief is reached.

4. Many inadmissible senior officials of designated regimes do not seem to have been complicit in the planning or execution of war crimes or human rights violations. Why would the granting of relief to these people be contrary to the national interest?

Individuals found to be complicit in war crimes or human rights violations are in fact barred from applying for MR. Parliament has thus clearly determined that complicity in international crimes is too serious an offence to ever justify relief. With respect to inadmissible senior officials of designated governments for whom complicity has not been established, Parliament concluded that such individuals must bear responsibility for the activities of the regime that they chose to serve. In the assessment of national interest, consideration would be given to exceptional circumstances that may warrant relief despite the person meeting the test for inadmissibility.



5. Why is the CBSA recommending that relief be denied to an individual who has no history of association with a criminal or terrorist organization in Canada, is successfully established here, and/or does not have a criminal record?

While an applicant's activities and establishment in Canada, including their lack of criminal activity here, may be relevant considerations within the national interest spectrum, MR is not temporally limited by means of a "forward-looking" test. Section 33 of the IRPA stipulates that the grounds constituting inadmissibility are not limited to present activities, but rather include facts for which there are reasonable grounds to believe that they have occurred, are occurring or may occur. While the passage of time since an individual's disassociation from an impugned entity may be given more or less weight by the Minister in relation to other case-specific circumstances, it alone neither automatically negates the past activities that led to the finding of inadmissibility nor diminishes the requirement to satisfy the Minister that relief would not be contrary to the national interest.

6. Why is the CBSA recommending that relief be denied to an individual who does not seem to pose a current or future danger or threat to Canada's security or safety?

The terms "national security and public safety" (NSPS) and "national interest" have never been defined, either in legislation or by the courts. Both of the latter, however, indicate that while NSPS considerations are the predominant elements of national interest, there is no requirement for the Minister to find that the individual poses a current or future threat/danger to Canada in order to deny relief. In fact, in the seminal MR case to date (*Agraira*), the Supreme Court of Canada upheld the Minister's decision to deny relief wherein the Minister's reasons did not specifically refer to the issue of current or future threat posed by the applicant. Furthermore, the current legislation (at paragraph 42.1(3) of IRPA), updated in 2013, explicitly states that, "[i]n determining whether to make a declaration [of relief],...in his or her analysis, [the Minister] is not limited to considering the danger that the foreign national presents to the public or the security of Canada". The Supreme Court also stated that relief is a discretionary exercise in which the Minister is entitled to deference regarding his interpretation of what is in the national interest.

Again, this does not mean that the absence of a defined danger is not considered as a relevant factor in the context of the national interest assessment, only that it may not necessarily be given significant weight, depending on many other case-specific circumstances.

7. If most MR decisions are negative, why are so many MR applicants still in Canada?

This happens for a number of reasons. MR is not directly related to the removal process. That is, an outstanding MR application does not stay removal of an inadmissible foreign national and nor does a denial of relief by the Minister of Public Safety automatically result in an existing removal order becoming enforceable.

Issuance of a removal order to a foreign national requires a finding of inadmissibility. Although updated regulations are being proposed, at present, there is no requirement to have a final inadmissibility determination prior to applying for MR. While this is no longer the practice, past IRCC policies resulted in many cases in the inventory being reported for inadmissibility but not being referred to the IRB for a final determination while the MR decision was pending. Therefore, the individual could not be issued a removal order.



In addition, for foreign nationals who have been issued a removal order, there are various avenues of recourse and stay mechanisms which may delay removals of inadmissible foreign nationals for many years, and sometimes indefinitely. Among these are individual deferrals of removal granted by CBSA officers (usually brief, to accommodate special needs); PS Minister- or court-granted stays (usually pending a specific process or decision); IRCC Pre-Removal Risk Assessments (PRRA, which could lead to protected person status and ultimately permanent residence); region- or country-specific Temporary Suspension or Administrative Deferral of Removals (which may be in place for years before conditions normalise or the risk has diminished in those areas); United Nations Interim Measure Requests (asking the CBSA to postpone removal until the UN has reviewed the case); and Humanitarian and Compassionate applications¹ to the IRCC Minister (which, if granted, overcome any inadmissibility preventing status in Canada).

Finally, many MR applicants in the CBSA's active inventory are Convention refugees or protected persons living in Canada who, at present, cannot be removed due to their protection under the UN *Convention relating to the Status of Refugees* (the Convention).

8. Hold on! Are you saying that many MR applicants are Convention refugees who are going to remain in Canada even if MR is denied to them? Why not just grant them MR rather than letting them remain in this state of "limbo"?

Granting refugee protection to a foreign national means that Canada has fulfilled its primary international obligation with respect to that individual by respecting the principle of *non-refoulement*, ensuring that they are not returned to a place where they may be persecuted. While not constituting permanent resident status under the IRPA, Convention refugee protection allows a foreign national living in Canada to benefit from many rights and freedoms in accordance with the UN Convention (e.g., health care, education, employment, etc.). These individuals are also able to travel abroad (with the exception of returning to their country of claimed persecution if they are travelling on a refugee travel document).

Being afforded protection under the UN Convention does not prevent a person from being deemed inadmissible to Canada, as becoming a permanent resident here is subject to meeting a number of statutory requirements. While the IRPA and related regulations relieve protected persons from some inadmissibilities (e.g., medical) when they are applying for permanent residence in Canada, the legislation does not exempt them from the most serious inadmissibilities - those which fall under sections 34 (security), 35 (international or human rights violations), 36 (criminality) and/or 37 (organized criminality). The legislative scheme established by Parliament thus recognized and intended that some Convention refugees inadmissible on serious grounds may never acquire permanent resident status here.

While an inadmissible foreign national's Convention refugee status in Canada is always considered in the context of a national interest assessment, it generally is not deemed to be a determinative factor warranting relief. In other words, protected person status, in and of itself, does not entitle an applicant to MR and thus the privilege of being granted permanent residence and eventually Canadian citizenship.

¹ With the June 20, 2013 coming-into-force of Bill C-43, foreign nationals found to be inadmissible under IRPA sections 34, 35 and 37 are no longer eligible for H&C consideration. However, H&C applications received prior to that date will continue to be processed, including those who have also applied for MR.



9. So, are these inadmissible refugees going to stay in Canada indefinitely?

That is impossible to predict and depends on many case-specific factors. Some seriously inadmissible foreign nationals with protected person status may, in fact, end up staying in Canada indefinitely. Others whose refugee protection has later been cessated² or vacated³, or those seriously inadmissible protected persons for whom the IRCC Minister is of the opinion that they should not be allowed to remain in Canada due to the nature and severity of their acts or because they constitute a danger to the public or to the security of Canada (commonly referred to as a ‘danger opinion’), may be removed.

Foreign nationals with serious inadmissibilities who have lost protected person status are still entitled to a limited PRRA prior to removal from Canada. Those found to be at risk of persecution, torture, risk to life or cruel and unusual treatment or punishment cannot be deported.

A protected person for whom a danger opinion is being considered may also request a PRRA, in which case the IRCC Minister’s delegate is required to balance the danger that the foreign national represents to the public against the risk posed to the foreign national should they be removed. If the Minister’s delegate concludes that the risk to the foreign national outweighs the danger to Canadians, that positive PRRA decision results in a temporary stay of removal which is subject to future review. If, however, it is determined that the danger to Canadians is predominant, the foreign national will be removed from Canada in spite of the identified risks they may face.

² Cessation – The person no longer requires Convention refugee or protected person status (e.g., conditions have changed in their country of nationality; they have voluntarily re-availied themselves of the protection of their country of nationality; they have obtained protection/citizenship from another country, etc.).

³ Vacant – The person’s refugee status is removed because it was obtained by misrepresentation.

Ismail, Naureen

From: Ismail, Naureen
Sent: April 19, 2018 12:42 PM
To: Delaney, Irys
Cc: Bosse, Julie
Subject: Package to CSIS

Hi Irys,

I have a package of documents I need to send to CSIS. I'm not sure how familiar you are with the process, but as this will be – at least for the time being – part of your duties, I'm happy to walk you through the steps 😊

In brief, in case you want a checklist for your reference:

- 1) Make a copy of the package going to CSIS – including the cover letter – for the analyst's brown folder
- 2) Fill out the transmittal slip for CSIS deliveries (currently stored in our supply cabinet – the one with the drawers)
- 3) Give the appropriate copy of the transmittal slip to the analyst (the mailing slips are marked to indicate which copy is to be kept by the originator)
- 4) Prepare the package (double enveloped, with a "SECRET" sticker on the inner envelope ****note: the mailing slips go inside the envelopes****; more information on procedures for mailing classified documents can be found at
- 5) Contact QMS for a quote – we generally use their 4-hour service, unless it's an urgent request. You can contact QMS by email, tracing@quickbusiness.com, or by phone. You'll need to provide them with:
 - our address
 - the destination address (documents to be redacted by CSIS are currently sent to 1941 Ogilvie Rd.)
 - our account number (3331) and possibly our cost centre (1841-200-40 – sometimes they ask, sometimes they don't)
- 6) Email the quote to Julie (or the acting manager) for approval
- 7) Once you have written approval of the quote, call QMS to schedule the pick up
- 8) Advise the analyst once QMS has picked up the package, so that the Look Ahead can be properly updated

I believe Gordan may also have something to send to CSIS in the next few days, so our stuff can be sent together (so as to avoid unnecessary expense – of note, you'll need to put my documents in one envelope, and his documents in a separate envelope, then put both of those envelopes together inside of a third envelope).

I'm away tomorrow, but we can go through the process together next week. I've already made a copy of the package for my file, so we'll be able to skip the first step 😊

Thanks!

Naureen Ismail

Senior Program Advisor – Ministerial Relief Unit, Programs Branch
Canada Border Services Agency/ Government of Canada
Naureen.Ismail@cbsa-asfc.gc.ca / Tel: 613-941-7598/ TTY: 866-335-3237

Conseillère principale en programme – Unité de la dispense ministérielle, Direction générale des programmes
Agence des services frontaliers du Canada/ Gouvernement du Canada
Naureen.Ismail@cbsa-asfc.gc.ca / Tél.: 613-941-7598/ ATS: 866-335-3237

REFERENCE GUIDE

HOW TO RESPOND TO
RULE 9 REQUESTS AND RULE 17 ORDERS
PURSUANT TO THE
FEDERAL COURT IMMIGRATION AND REFUGEE
PROTECTION RULES
(FCIRPR)

Prepared at GTEC on

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PREAMBLE

The purpose of this Guide is three-fold:

PART I: QUICK REVIEW OF THE JUDICIAL PROCESS

Federal Court of Canada

(More detailed information concerning the judicial review process is provided in Chapter 9 of the Enforcement Manual.)

Application for Leave and Judicial Review

(For an example of an Application for Leave and Judicial Review see Tab 1 of the Certified Tribunal Record (CTR) Reference Guide.

The parties to the judicial review process

The parties or persons/bodies involved in the judicial review process are as follows:

The Applicant

The Applicant is the person who files the Application for Leave and Judicial Review. For the purposes of this Guide, the Applicant will always be the client or person concerned – i.e. the person who does not agree with a decision made pursuant to the Immigration legislation and is asking the court to review it or is asking the court to direct the Ministers to make a decision concerning their case.

Note: The applicant could also be the Minister of Public Safety or the Minister of Citizenship & Immigration where the Department is challenging a decision by a quasi-judicial tribunal such as the Immigration Appeal Division for an example.

The Respondent

The Respondent is the person who is required to respond to the Application for Leave and Judicial Review in court. For the purposes of this Guide, the Respondent will always be the Minister of Public Safety or the Minister of Citizenship & Immigration and will always be represented by the Department of Justice.

The Tribunal

The tribunal is the decision-maker i.e. the person who made the decision or the office that is responsible for the matter that is being reviewed by the court. For the most part, the tribunal is the Refugee Board since most court challenges involve decisions on refugee claims. However, a significant number of decisions challenged to the Federal Court are decisions made by the Ministers or their designated officials.

Role of the Department of Justice (DOJ)

DOJ represents the Ministers in all matters before the courts whether they are the Respondents (in the vast majority of the cases) or the Applicants (in some cases). The relationship between DOJ and CBSA/CIC is that of a solicitor-client. CBSA and or the CIC are the clients and DOJ is our solicitor. It is the DOJ's responsibility to defend decisions made under IRPA. DOJ lawyers act on instructions received from designated CIC and/or CBSA officials.



Canada Border
Services Agency

Agence des services
frontaliers du Canada



PROTECTION

SERVICE

INTEGRITY



PROTECTION

SERVICE

INTÉGRITÉ

Standard Operating Procedures (SOP)

Ministerial Relief

October 2018

PROTECTION • SERVICE • INTEGRITY

Canada



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Introduction

Application

These SOPs apply to Canada Border Services Agency (CBSA) employees involved in preparing recommendations for Ministerial Relief (MR) for the Minister of Public Safety.

Context

A permanent resident or foreign national may be inadmissible to Canada on various grounds including security (A34), violations of human or international rights (A35) or organized crime (A37). Immigration legislation includes a provision for relief from the inadmissibility if the person satisfies the Minister of Public Safety and Emergency Preparedness that his/her presence in Canada would not be contrary to the national interest [subsection 42.1(1) or former subsection 34(2), 35(2), 37(2)]. Ministerial relief is not available to those persons who committed war crimes or crimes against humanity [A35(1)(a)].

The Ministerial Relief Unit analyzes and assesses applications for Ministerial relief and prepares recommendations to the Minister to grant or deny relief.

Legislative Authority: *CBSA Act, Immigration and Refugee Protection Act (IRPA), Criminal Code*

The objective of these procedures is to provide guidance for the Ministerial relief (MR) process, which is applicable from the time the MR application is received by the MR unit, to the presentation of the MR recommendation to the Minister, and any subsequent litigation that involves the MR unit.

Purpose

Objectives

To establish clear procedures for the Ministerial relief process in order to improve efficiency and effectiveness of the program.

Expected results

The Ministerial Relief Unit follows an established and efficient process.

Improved processing times for Ministerial relief recommendations.

Procedures will establish uniformity and consistency within the unit.



Procedure

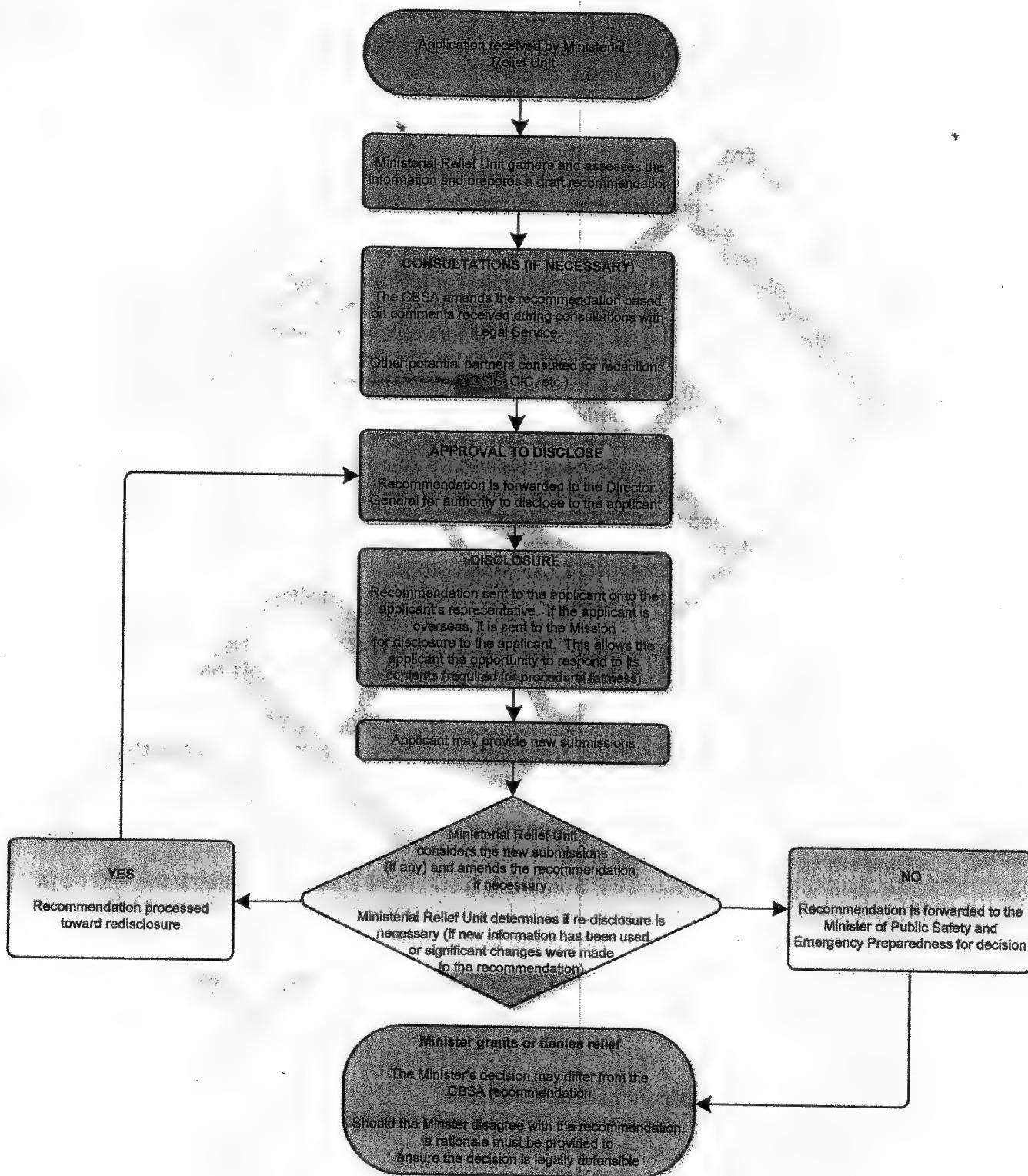
The procedures within the Ministerial relief process include the following main activities:

- Processing new Ministerial relief applications (1.0);
- Drafting a recommendation (2.0);
- Sending draft for consultations (3.0);
- Sending recommendation to the Director General's Office (DGO) for authority to disclose (4.0);
- Disclosing draft recommendation to the applicant (5.0);
- Receiving additional updated submissions (6.0);
- Receiving new submissions further to disclosure and final recommendation for decision by Minister of Public Safety (7.0);
- Receiving the Minister's Final decision (8.0);
- 'Rule 9' Requests (9.0);
- 'Rule 17' Orders (10.0);
- Responding to update requests (11.0);

These SOPs explain each of these procedures.



Process Map





1.0 Processing new Ministerial Relief (MR) applications

- Applications received after March 10, 2017 are subject to the new Ministerial relief regulations, found between subsection 24.1(1) and 24.5 of the *Immigration and Refugee Protection Regulations* (IRPR). Please note that the regulations also have transitional provisions that apply to certain cases, which can be found under the "Related Provisions" section of the IRPR, at SOR/2017-38, s. 5

- In order for an application submitted after March 10, 2017, to be accepted by the MRU for processing, it must contain a completed BSF766 form ("Application for a Declaration of Relief under Subsection 42.1(1)" of the IRPA. Before accepting the application for processing, the officer must ensure that the mandatory sections of the form are completed. The application form must contain the required information stipulated under subsection 24.2(1) of the IRPR (see [guide](#)).
- An applicant submitting an application for MR after March 10, 2017, must also be eligible to submit an application. In order to be eligible, an applicant must have had either an application for permanent or temporary residence refused, or a deportation order issued against them, on the basis of an inadmissibility determination made under section 34, paragraphs 35(1)(b) or (c) or subsection 37(1) of IRPA. The underlying admissibility decision also cannot be subject to judicial review. See subsection 24.1(1) and (2) of the IRPR.
- Should the above criteria be evaluated by an officer and determined not to be fulfilled, the application cannot be accepted for processing. Should this occur, an FB-06 will need to be consulted and the application package will need to be returned to the applicant, unprocessed, along with a covering letter (\\lomega\\natdfs\\CBSA\\HQ\\Customs\\Customs_H02\\GV3\\PB-DGP\\PostBPD-DPAPF\\CM-GC\\Ministerial Relief\\Application for Ministerial Relief\\Template Letters).
- Any actions concerning the rejection or closure of applications pursuant to the new regulations need to be tracked on our [excel spreadsheet](#) (this process is subject to yearly performance reporting to Treasury Board) (\\lomega\\natdfs\\CBSA\\HQ\\Customs\\Customs_H02\\GV3\\PB-DGP\\PostBPD-DPAPF\\CM-GC\\Ministerial Relief\\MR Inventory - Tracking - Spreadsheets). Naureen is coordinating this activity.

1.2 Accepting a Ministerial Relief application

- Date stamp first page of application

Note: If the submissions include a cover letter from the region, make sure to date stamp the first page of the actual submissions as well as the cover letter. If submissions do not include a cover letter and have been received by email, include the email as the cover sheet.

*****If the application was submitted on behalf of an applicant (by counsel etc.), ensure that the package is accompanied by a Use of Representative form*****

1.3 Consult GCMS/NCMS

- Check to see if the applicant has multiple UCIs
 - If multiple UCIs exist, contact QRC for client merge
- Conduct alias and name variation check
- Verify the grounds of inadmissibility



1.4 Update MR inventory

- Enter case details in the Ministerial Relief Inventory in Apollo (See Tracking Procedures)

1.5 Update MR Regs Tracker

- Enter case details in the MR Regs Tracker in Apollo (See Overview of the Regs Tracker)

1.6 Add new case file to folder in the generic mailbox (Outlook)

- Any electronic correspondence related to the applicant should be saved in the outlook folder.

1.7 Create new MR folder

1.7.1 Attach one label with the applicant's name, FOSS ID, and the file's security classification to the front right side of a brown accordion folder. Attach another label titled "Ministerial Relief Unit File" to the left side.

1.7.2 Add submissions to MR folder

1.7.3 Request documents from region or mission to build MR folder (See Document Checklist)

1.7.4 Send file to CBSA records until ready to be assigned (use the MR sign in/out book)

1.8 Update NCMS

1.8.1 Consult the NCMS deck prepared for a high level overview of the MR tab in NCMS (NCMS Deck)

1.8.2 Log in the system via the Citrix Web interface.

1.8.3 Consult NCMS SOP

1.9 Provide updated MR ATIP list to DGO

- Add name to "Master List of Applicants for ATIPs", found in Apollo within the MR Resources folder
- E-mail the DGO generic mailbox, advising them of the update, and copy the EC-02 in the Director's Office

1.10 Create new case folder in Apollo

- Follow the established naming conventions [*LAST NAME, First Name (UCI)*] and fill in all required case properties



2.0 Drafting a Recommendation

2.1 File Assignment

- A file is assigned based on established priority

2.1.1 Update MR Inventory

- Indicate in the Ministerial Relief Inventory that the case has been assigned in the tracking tab and the files assigned tab

2.2 File retrieval

2.2.1 Request file(s)

- Request all available files from CBSA records
 - (CBSA/ASFC.SirRichardScottRecords@cbsa-asfc.gc.ca)
- If necessary, request 310-s and HQ files from CIC records
 - (IM-Helpdesk@cic.gc.ca)
- Check FOSS, GCMS and NCMS for other files that may exist
- Ensure that all required documents are on file (if available)
- See Document Checklist for list of documents
- If any documents are missing, contact the appropriate office(s) and request documents

2.3 Prepare file

2.3.1 Check systems

- Review emails in the MR Inbox for any relevant file information
- Check FOSS, NCMS, GCMS and STS for recent file activity and case/applicant status

2.3.2 Create an MR folder if one does not already exist (see 1.5)

- Make copies of relevant documents from 310-s and HQ files
- Once all necessary documents are copied and the analyst no longer require them, return 310-s and HQ files to CIC records

2.3.3 Prepare black folder for attachments

- Create label for outside of folder (see template)
- Insert numbered dividers for attachments

2.3.4 Create new folder on G:drive

- Within the 'MR recommendation,' 'Work in Progress,' folders, create a folder with the case name where draft recommendation will be saved
- Create three folders within case folder: 'Signed by DGO and disclosed to applicant,' 'Previous Versions' and 'For the Minister'

2.3.5 Save template to new case folder

- Templates can be found at the following location:
 -
- Use template that is specific to the case [(34(2), 35(2) or 37(2))]
- Cases received prior to June 20, 2013 use the "pre-C43" template, whereas those received after use the "C-43 template"



- Save template to case folder (from 2.3.4) with file name as follows:
 - "LAST NAME, first name (group name)"

2.3.6 Create MR reference sheet

- Fill in reference sheet – information can be found on FOSS, GCMS, STS and on file
- Reference sheet should be placed at the front of the MR folder

2.4 Organization background

2.4.1 Identify existing backgrounds

- Existing backgrounds may be located on the G:drive and hard copies are filed with the MR Unit
- Print footnoted background, photocopy supporting documents and include package as 'Attachment 1' of recommendation

2.4.2 Request new background

- If no approved background exists (or if it is outdated), contact appropriate person to update or draft a background

2.4.3 Insert background into draft recommendation

- Copy electronic version of short background and paste into the corresponding section of the template (from 2.3.5)

2.5 Draft Recommendation

2.5.1 Make copies of documents required for the attachments

- Original documents should be kept on the MR folder

2.5.2 Use existing templates found on G:drive

- Retrieve applicant's template from G:drive (from 2.3.5)
- Use information found in each section within the template as a guide to prepare the draft recommendation
- Ensure that the 'DRAFT' watermark is visible on every page
- There should be no signature block on the last page of the recommendation at this stage

2.5.3 Additional documentation

- Identify any further documents required (if any) and request them from the appropriate office(s)

2.2 Peer review

- Once the draft recommendation is complete, it may be reviewed by MR team members and edited as needed before it is sent to the team leader for approval

2.3 Team Leader Review

- The Team Leader will review the draft and any necessary changes will be made before it is sent for consultations, if required, or to Manager for approval. CSIS is consulted on files which contain classified information (i.e. CSIS brief). Legal services is consulted on all files which are not "routine" membership cases concerning 34(1)(f) terrorism inadmissibilities.



2.4 Update Look Ahead

- When the draft recommendation is nearing the consultation stage, add the case to the current Look Ahead under the "Cases in final preparations for approval to disclose" heading

2.5 Update Inventory and NCMS

- When the draft recommendation is sent for consultation, if required or up the approval chain, update the inventory accordingly

3.0 Sending draft for consultations (if required)

- The Ministerial relief unit sends documents for consultations with Legal Services, CSIS, CIC and any other organizations as necessary (e.g. RCMP)
- These consultations are done simultaneously
- Update the Inventory and look ahead to reflect all consultations

3.1 Legal Services consultations

Note: If it's a 34(1)(f) as it relates to (c) terrorism application and there are no new legal arguments, consultations with Legal are not necessary (unless there is some concern regarding the file from your team leader)

- Send the draft recommendation by email (using Entrust) to the Legal Services team leader (they will respond back with the assigned Legal representative for your file)
- Request that they review and provide a response within 14 calendar days
- Cc your FB-02 so that the file tracking and necessary updates can be made

3.2 CSIS

Note: If there are no CSIS briefs and no mention of CSIS in the recommendation and attachments, consultations with CSIS are not necessary

3.2.1 Prepare recommendation package

- Photocopy recommendation and attachments requiring redaction, excluding client submissions and open source documents
- If the recommendation or attachments have previously been redacted, include the redactions in the package for CSIS
- If these redactions were completed within the past four years, CSIS does not need to be consulted

3.2.2 Draft letter to CSIS

- Draft cover letter using the template requesting that they review and provide a response within 14 calendar days
- Make note of any previous redactions in the cover letter
- Make a complete copy of CSIS package and file it in the MR folder

3.2.3 Send package to CSIS

- Packages should be sent by courier (QMS) (Consult QMS SOP)
- Ensure that proper procedures for sending Protected/Secret documents are followed. CBSA mailing procedures can be found at the following link:



3.4 Update MR inventory, Look Ahead and NCMS

- Indicate the date all consultations were sent out in the 'Consultations' tab
- Indicate the date the recommendation was sent for consultations on current Look Ahead saved here: "

3.5 Receipt of comments from Legal Services

- Comments are received by email if applicable

3.5.1 Update MR inventory and Look Ahead

- Update inventory to indicate date comments were received
- Indicate date comments received on current Look Ahead
- Writer edits recommendation as required
- Writer follows up with Legal, if required, to finalize suggested changes before moving forward
 - Once Legal approves the draft recommendation, ensure any further changes are documented with track changes

3.6 Receipt of comments from CSIS

- Comments/redactions received by registered mail or courier

3.6.1 Update MR inventory and Look Ahead

- Update inventory to indicate date comments were received
- Indicate date comments received on current Look Ahead

3.6.2 File redacted documents

- Place redacted document (with letter from CSIS attached) in MR folder
- Place a copy of redacted document in black folder behind un-redacted version

3.7 CIC redactions or reclassification (if necessary)

- If there is a CIC document in the attachments that is classified as "Secret," or if a CIC document mentions "CSIS", it must be first sent to CSIS for redactions.
- See CIC template letter

3.7.1 No CSIS Redactions

- If CSIS does not have any redactions, the report should be sent to CIC requesting that they provide any necessary redactions
- If CIC does not have any redactions, they may declassify the document to "Protected B" by initialling and dating the change

3.7.2 Redactions Provided by CSIS

- If CSIS does have redactions, the document should maintain its classification, but should still be sent to CIC to ensure that they have no further redactions

3.7.3 File redacted documents

- Place redacted documents (with letter from CSIS and/or CIC attached) in MR folder
- Place a copy of redacted document in black folder behind un-redacted version

3.8 To Team Leader and Manager for approval

- The recommendation must be approved by the Team Leader and then the Manager before it enters the next stage of the approval process

4.0 Sending recommendation to the Director General's Office (DGO) for authority to disclose

4.1 Prepare the draft recommendation for approval

4.1.1 Save document

- Ensure the most recent copy of the recommendation is saved to the G:drive

4.1.2 Print recommendation

- Print a copy of the recommendation in colour (single-sided)

4.1.3 Prepare routing slip

- Template can be found at the following location:

- To determine the date for Director General's sign-off, refer to the Approval Timeline Spreadsheet for requested approval date

- Save routing slip to G:drive

- Print one copy of routing slip in colour

4.1.4 Prepare docket

- Attach recommendation to the inside right of a green, legal-sized folder with a paper clip
- Attach routing slip to outside front of folder with a paper clip

4.1.5 Prepare black folder

- Ensure black folder has an outer label
- Ensure that all attachments are in order and that no original documents are included in attachments

4.1.6 Copy for MR folder

- Ensure that one complete copy of the attachments (original documents, when applicable) is stored in the MR folder. All copies should capture all details of the document accurately. This is to ensure that the complete package can be reproduced should the black folder go missing.

4.2 Send draft recommendation for approval

- Green docket and black folder are sent together for approval.

4.2.1 Prepare for Manager's approval

- Analyst and Team Leader both sign off routing slip before docket and black folder are routed to the Manager for approval

4.2.2 Update MR inventory, Look Ahead and NCMS

- Update inventory to indicate date approved by Analyst
- Indicate date approved by Analyst and sent to Manager on current Look Ahead



- Update NCMS to indicate date sent to Manager for approval
- Update NCMS file location

4.2.3 Manager's approval

- Manager approves, docket and black folder are routed to Director's office for approval

*** 4.2.4 Update MR inventory, Look Ahead and NCMS**

- Update inventory to indicate date approved by Manager
- Indicate date approved by Manager on current Look Ahead
- Update NCMS to indicate date approved by manager
- Update NCMS file location

4.2.5 Director's Office

- Director approves, docket and black folder are routed to Legal, if consulted, or directly to the Director General's office for approval

4.2.6 Update MR inventory, Look Ahead and NCMS

- Update inventory to indicate date approved by Director
- Indicate date approved by Director on current Look Ahead
- Update NCMS file location

4.2.7 Legal Services (if required, if not required skip to 4.3)

- If Legal was consulted during the consultation stage (3.1), they are required to approve and sign the routing slip. The Director's advisor will notify the FB-02 when the file has been approved by the Director and is ready to be delivered to Legal for approval. The advisor in the Director's office will route the file in CCM to Legal services.
- Legal Services does not review the black folder (attachments) but the black folder is routed with the docket
- When Legal approval is received, the Director's office will notify the FB-02 to pick up the docket and black folder from Legal and deliver to the Director's office to be forwarded to the Director General's office.

4.2.8 Update Inventory, Look Ahead and NCMS (if required)

- Update inventory to indicate date approved by Legal
- Indicate date approved by Legal on current Look Ahead
- Update NCMS file location

4.3 Recommendation sent back from changes

- The recommendation may be sent back down to our unit at any time during the approval process, with questions/comments.

4.3.1 Make necessary changes and return for approval

- Make any necessary changes to the recommendation
- Answer any questions or concerns in memo format
- Return the draft recommendation to the office where the questions/comments originated for approval
- Attach the original recommendation with the suggested changes/comments and memo to the flyleaf



4.3.2 Update Inventory, Look Ahead and NCMS

- Update the Inventory with a comment in the 'Pre Disclosure Approval Stream' tab to indicate the date it was returned to the MRU for changes and the date it was returned for approval
- Update the Look Ahead to indicate the date it was returned to the MRU for changes and the date it was returned for approval
- Update NCMS to indicate to indicate the date it was returned to the MRU for changes and the date it was approved by the manager and returned for approval

4.4 Recommendation approved by Director General for Disclosure

4.4.1 Save approved version to the G:drive

- Scan the recommendation with the signed routing slip as the first page and save as PDF in 'signed by DGO' folder

4.4.2 Update Inventory, Look Ahead and NCMS

- Update inventory to indicate date approved by DG for disclosure
- Indicate date approved by DG on current Look Ahead
- Update NCMS

Note: If file was approved by Director on behalf of DG, make copy of recommendation and signed routing slip and provide to DO for DGO's records

5.0 Disclosing the draft recommendation to the applicant

- Once the recommendation has been approved by DG and sent back to the MRU, it is ready for disclosure

5.1 Determine if applicant has a representative

- Check the 'Counsel on Record' tab in the MR inventory
- If not listed in the MR inventory, check the case folder in the MR generic inbox for any past correspondence with a representative
- Also consult MR folder, FOSS, NCMS and GCMS to determine updated representative if applicable
- Ensure 'Use of Representative Form' is on file before disclosing to someone other than the applicant

5.2 Prepare file for disclosure

- Make an exact copy of the approved draft recommendation and attachments

5.3 Redactions

- Ensure that Secret pages are replaced with redacted pages where necessary
- Redactions received from CSIS or other partners during the consultation stage should be found in the MR folder
- It is very important that Secret documents are **NOT** disclosed to the applicant (this can result in significant costs and embarrassment to the Agency)

5.4 Mail Disclosure Package

- Prepare disclosure letter and have it signed by the Team Leader (disclosure letter)
- Packages should be sent by courier to representative if representative has been determined in 5.1 (priority post through mailroom)



- If no representative has been identified, mail directly to applicant
- Confirm recipient's address
- Ensure that proper procedures for sending Protected/Secret documents are followed. CBSA mailing procedures can be found at the following link:
- Packages going to an overseas office should be mailed by diplomatic bag to the responsible mission, which will forward the package onwards to the applicant

5.5 Update MR inventory, Look ahead and NCMS

- Update inventory 'Disclosure' tab to indicate date package was mailed out for disclosure
- Update Look ahead to indicate date package was mailed out for disclosure
- Update NCMS to indicate date package was mailed out for disclosure

5.6 Confirmation

- Once a disclosure has been sent, conduct follow-ups as necessary to ensure the draft recommendation has been received by the applicant or their representative
- Print out courier confirmation of receipt of package and place in the brown folder
- Calculate due date for receipt of submissions (60 days following receipt of package) and update inventory and look ahead to reflect due date for submissions.

6.0 Receiving additional updated submissions

- Submissions can be received at any time during the MR process (not just at disclosure stage)
- For processing submissions received in response to disclosure, see procedures in section 7.0

6.1 Date stamp

- Date stamp first page of new submissions upon receipt

Note: If the submissions were received by email and do not include a cover letter, print out email as cover letter and date stamp both the email and the first page of the actual submissions

6.2 Add submissions to MR

- If the MR folder is not with the MRU, retrieve it from CBSA Records (CBSA/ASFC.SirRichardScottRecords@cbsa-asfc.gc.ca)
- Add new submissions to the MR folder and return file to records until it is ready to be assigned

6.3 Update NCMS

- Update NCMS to indicate date submissions were received

7.0 Receiving new submissions further to disclosure and processing final recommendations for decision by the Minister of Public Safety and Emergency Preparedness

Note: Applicants do not always provide new submissions in response to disclosure. If the applicant has not provided further submissions after 60 calendar days, the MR unit will proceed with file processing

7.1 Date stamp new submissions

- Date stamp first page of new submissions upon receipt

Note: If the submissions were received by email and do not include a cover letter, print out the email and date stamp both the first page of the actual submissions and the cover letter



7.2 Add submissions to MR folder and black folder

- Place original submissions in MR folder
- Make one copy of submissions for black folder

7.3 Update Inventory, Look ahead and NCMS

- Update inventory 'Disclosure' tab to indicate date submissions were received
- Update Look ahead to indicate date submissions were received
- Update NCMS to indicate date submissions were received

7.4 Review Submissions (if received)

- Analyst to incorporate new submissions into final draft

7.5 Update Recommendation

- Create working copy in track changes
- Update attachments to include new submission(s)
- Check FOSS/NCMS/GCMS for case development(s)
- Update case citations and footnotes if necessary
- Remove DRAFT watermark
- Add signature blocks for President and Minister of Public Safety
- Ensure template text is consistent with the most recent MR template (see 2.3.5)
- Verify all previous disclosures have been addressed
- Text that has change since disclosure should be captured via track changes
-

7.6 Prepare recommendation for final approval

7.6.1 Save recommendation

- Ensure the most recent copy of the recommendation is saved to the G:drive

7.6.2 Print recommendation

- Print one copy of the recommendation in Track Changes (single-sided)
- Print one copy of the final recommendation in colour (single-sided)

7.6.3 Prepare routing slip

- Template can be found at the following location:

- To determine the date for Minister's sign-off, refer to the Approval timeline
- Print two copies of routing slip in colour, one from Analyst to DG and second from Legal to Minister, if Legal was consulted, if not from DG to Minister

7.6.4 Prepare docket(s) for approval

- Attach the final recommendation to the inside right of an orange, legal-sized folder with a paper clip
- Attach the recommendation, in track changes, to the inside left of the folder, along with the appropriate "Post-disclosure approval flyleaf 2017" (with or without additional submissions), which is located under "MR Templates".
- Attach routing slip to outside front of folder with paper clip



- File is signed off by analyst and team leader before it's delivered to Manager for approval
- The President's Office requires a separate copy of the docket to be provided along with the package. This should be an exact copy of the orange folder, but placed in a white, legal sized, folder. Stamp the Routing Slip this with the "COPY" stamp, in the box beside the President's name.

7.6.5 Update MR inventory, Look Ahead and NCMS

- Update inventory to indicate date approved by Analyst and sent Manager
- Indicate date approved by Analyst and sent to Manager on current Look Ahead
- Update NCMS to indicate date sent to manager for approval

7.6.6 File with Manager for approval

- Send orange/white folder and black folder to Manager for approval
- Where applicable, include the redacted versions of documents along with the un-redacted versions in the attachments
- Manager approves, dockets and black folder are routed to the Director's office for approval

7.6.7 Update MR inventory, Look Ahead and NCMS

- Update inventory to indicate date approved by Manager
- Indicate date approved by Manager on current Look Ahead
- Update NCMS to indicate date approved by Manager

7.6.8 Prepare for Director's Approval

- Send orange/white folder and black folder to DO for approval
- Where applicable, include the redacted versions of documents along with the un-redacted versions in the attachments
- Director approves, dockets and black folder are routed to Legal, if consulted, or directly to the Director General's office for approval

7.6.9 Update MR inventory, Look Ahead and NCMS

- Update inventory to indicate date approved by Director
- Indicate date approved by Director on current Look Ahead
- Update NCMS to indicate date approved by Director

7.6.10 Legal Services (if required, if not required skip to 7.7)

- If Legal was involved in the disclosure stage, they are required to approve and sign the routing slip.
- The Director's advisor will notify the FB-02 when the file has been approved by the Director and is ready to be delivered to Legal for approval.
- The advisor in the Director's office will route the file in CCM to Legal services.
- Legal Services does not review the black folder (attachments) but the black folder is routed with the docket
- When Legal approval is received, the Director's office will notify the FB-02 to pick up the docket and black folder from Legal and deliver to the Director's office to be forwarded to the Director General's office.

7.6.11 Update Inventory, Look Ahead and NCMS (if required)

- Update inventory to indicate date approved by Legal



- Indicate date approved by Legal on current Look Ahead
- Update NCMS file location

7.6.12 File approved by President and sent to the Minister's office for approval

- When the recommendation is signed by the President and sent to the Minister for approval, an 'information' copy is sent back to the MRU
- File 'information' copy in the MR folder
- Review and compare approval dates from routing slip to inventory and update as required

8.0 Receiving the Minister's Final decision

- When a decision has been rendered, the orange folder with the signed recommendation and the black folder are returned to the MRU

8.1 Save Final Decision to Apollo

- Scan final decision and save to the "Final Decisions" folder within the applicant's folder
 - 8.1.1 Add the decision to "Final Decisions" collection with the "Program Issues" folder

8.2 Save hard copies to the MR folder

- Photocopy final decision and file original to MR Folder
- File original routing slip to MR folder

8.3 Update MR inventory, Look ahead and NCMS

- Update MR Inventory
- Indicate decision date by Minister on current Look Ahead
- Update NCMS to indicate decision date by Minister
 - Add process note stating:

"On DATE, FULL NAME was granted Ministerial Relief by the Public Safety Minister from his inadmissibility under IRPA PROVISION for GROUNDS (e.g., membership in the GROUP NAME). For further information, please contact the CBSA Ministerial Relief Unit at Ministerial_Relief_Exemptions_Ministerielles@cbsa-asfc.gc.ca."

8.4 Prepare MR folder for Records

- If decision is not litigated, file can be closed
- Closed files are sent to the CBSA records room for archiving and retention
- Duplicate records no longer required should be destroyed prior to archiving
- Ensure closed MR folder contains the final decision package
- Update NCMS file location to "Archived"
- Move applicant's outlook folder to "Closed Cases" cases folder

8.5 Send copy of signed final decision to client and/or client's counsel

- If applicant is overseas, the final decision must be delivered to the overseas mission

8.5.1 Confirm address for disclosure

- Confirm that an 'authorization of representation' exists on file for counsel/representative.
- Counsel's address should be found in the MR inventory 'Counsel on Record' tab and on submissions from counsel
- If there is no counsel on record, send decision directly to applicant
- Confirm client's home address in GCMS and with previous correspondence



8.5.2 Prepare final Decision Letter

- Prepare final decision letter ([sample letter](#))
- Copy signed version to MR folder
- Save electronic copy (with and without signature) to applicants correspondence folder in Apollo
 - Add letter to "Refusal and grant letters" collection in "Program Issues" folder

8.5.3 Send by courier

- Ensure that proper procedures for sending Protected/Secret documents are followed. CBSA mailing procedures can be found at the following link:
- Print and file courier delivery receipt to MR folder with date and tracking number
- Print and file delivery receipt from courier service (proof of delivery)
- Packages going to an overseas address will be mailed by diplomatic bag

8.6 Send Copy of Final Decision to Other Stakeholders

- Evaluate whether an office of collateral interest exists (i.e. processes pending in the region). Email (Entrust PKI only) or courier copy to responsible officer at CIC or CBSA Regional Office
- Email (Entrust PKI only) or deliver copy to CBSA Legal Services as courtesy (if they were consulted)

9.0 'Rule 9' Requests

- Rule 9 requests are Court ordered requests for decisions and reasons. In the MR context, this includes the Minister's decision (final recommendation with Minister's signature) and, if applicable, any additional decision notes provided by the Minister.
- Immediate priority
- The Court order may come directly to the MRU from the Court, or may be forwarded to the MRU by CBSA Litigation Management Unit (LMU)
- If no deadline is clearly stated, Rule 9 requests should be finalized within 10 days
- The MRU must liaise with the LMU to ensure that both parties are aware of the existing Rule 9 request

9.1 Update Rule 9/Rule 17 spreadsheet

- Track Rule 9 requests by completing date request received and due date fields in [Rule 9/Rule 17 spreadsheet](#)

9.2 Confirm file status

- Determine file status
- Is this an active MR application meaning a decision has not been (mandamus) made or is this a closed MR application meaning a decision has been made?

9.3 Prepare response letter and declaration

- Select appropriate response letter (no decision, redacted decision, or non-redacted decision)

Note: "No decision" would apply to a *mandamus* application relevant to a decision pending

- Prepare a response letter, to be signed by the team leader, addressed to the Court Registry with a cc to the Department of Justice and the Applicant's counsel or directly to the client, if no counsel has been named



- Complete 5 'certification' forms, signed by the team member who photocopied and assembled the CTR packages

9.3.1 If previous decision exists

9.3.1.1 If more than one decision exists, ensure decision is one referenced in court request

9.3.1.2 Print copy of final recommendation with Minister's decision (and additional notes from the Minister, if applicable)

9.3.1.3 Number pages in upper right hand corner (can be done on photocopier) and make 4 copies (5 total)

9.3.1.4 Make 4 copies of the response letter (5 total)

9.3.1.5 Prepare 5 packages comprised of a response letter, Minister's decision (with notes, as applicable) and attach a certification form to each package

9.3.2 If no decision exists

- Prepare 4 copies of response letter (5 total)

9.4 Mail out copies

9.4.1 Confirm all addresses with Litigation Management Unit (LMU)

9.4.2 Mail copies out as follows:

- original plus one copy by regular mail to Court Registry (use courier if short on time)
- one copy by courier to Department of Justice
- one copy by courier to Applicant's counsel or directly to client, as the case may be

9.4.3 Place one copy in the MR folder

9.5 Update Rule 9/Rule 17 spreadsheet

- Update number of pages/volumes sent and address fields in the Rule 9/Rule 17 spreadsheet

10.0 'Rule 17' Orders (see CTR SOPs for more detail)

- Rule 17 requests are Court ordered requests for Certified Tribunal Records (CTR), which include all information put before the Minister (as the decision-maker). Contents include:
 - the final recommendation with Minister's signature and, if applicable, any additional decision notes provided by the Minister
 - All Attachments
- Immediate priority
- The Court order may come directly to the MRU from the Court, or may be forwarded to the MRU by CBSA Litigation Management Unit (LMU)
- Rule 17 requests always have a deadline that will either be provided by the Court or will be communicated by CBSA Litigation Management Unit (LMU) – usually 21 calendar days
- The MRU must liaise with the LMU to ensure that both parties are aware of the existing Rule 17 request



10.1 Update Rule 9/Rule 17 Spreadsheet

- Track Rule 17 requests received and due date fields in Rule 9/Rule 17 spreadsheet

10.2 Confirm file status

- Determine file status
- Is this an active MR application meaning a decision has not been made or is this a closed MR application meaning a decision has been made

10.3 Advance consultations for redactions (for cases where previous decision exists)

- The MRU has approximately 20 days from notification to mail out CTRs to all recipients
- Given the short timelines, the redaction process (in concert with CSIS) is initiated in advance of notification (i.e. as soon as we know that an applicant has filed for leave and JR)
- The process will offer additional time for files to be reviewed by redaction authorities.

10.3.1 Preparation of files for redaction

- Print copy of final recommendation with Minister's decision (and additional notes from the Minister, if applicable)
- Copy black folder (attachments) and number all pages (including the decision, which starts at page 1) in sequence, in the upper right hand corner (can be done with photocopier)
- send package to redaction authorities (normally CSIS, but also includes any other entities from whom we have included SECRET/classified information in the MR attachments)
- If previous redacted versions exist, send them and the original un-redacted versions to the redaction authorities to allow them to determine if those redactions are still valid

Note that redaction authorities will retain these files until such time that notification is given. At this time, they will initiate final approval of their redactions by their respective chains of command.

10.4 Actions upon receipt of redactions

- Insert all redactions (from the various entities) into the CTR, and remove un-redacted documents (as applicable)
- Prepare 4 copies (5 total including original) of the CTR (decision, attachments, and additional notes from the Minister, if applicable)
- Packages exceeding 200 pages must be separated into volumes of 200 pages (or less, for the last volume). Note that one of these copies will be retained as an MR file copy.
- Identify each volume with cover sheet (Vol. 1, Vol. 2, etc)
- Complete certification page
- Bind each packages using Cerlox or plastic combs (see Allegra binding SOP)

10.5 Prepare response letter and declaration

- In cases where both the decision or no decision exist, do the following:
 - Prepare a response letter (CTR Cover Letter) (to be signed by the team lead) addressed to the Court Registry with a cc to the Department of Justice and the Applicant's counsel or directly to the client if no counsel has been named
 - Place copy of the letter on MR folder
- In cases where only a decision exists, complete the additional following step:
 - Complete 5 'certification' forms and attach them to the CTRs.



- Have the CTRs sworn as a true copy by an MR staff member
- Place copy of the certification on MR folder
- In cases where there was no decision, mail out the response letters only.
- In cases where there was a decision, attach the response letter to the CTR and certification and mail out as an entire package to appropriate recipients

10.6 Mail out responses

- Confirm all addresses with Litigation Management Unit (LMU)

10.1.1 Mail copies out as follows:

- original plus one copy by regular mail to Court Registry
- one copy by courier to Department of Justice
- one copy by regular mail to Applicant's counsel or directly to client, as the case may be

10.1.2 Place one copy on the MR folder

10.2 Update Rule 9/Rule 17 Spreadsheet

- Update number of pages/volumes sent and address fields in Rule 9/Rule 17 spreadsheet

11.0 Responding to update requests

- Before responding to any requests from a third party, ensure that an up to date "authority to release information to counsel or representative" form is on file.
- If current form is not available, ask that it be completed by the requestor
- See "Update Requests and Correspondence" folder for response examples

Requests from applicant/counsel	Requests from the region/overseas	Minister's Office seeking updates	MinCor (Ministerial Correspondence)
<ul style="list-style-type: none"> • If request was sent via mail or fax, date stamp and save document to the MR folder • If query is in reference to the current status of their application, the response should acknowledge receipt of their request without committing to a specific completion date • Deliver responses in the same manner they are received – by email, regular mail or by fax • If request was sent electronically, save it in the generic inbox, along with the response 	<ul style="list-style-type: none"> • Most requests from the region/overseas are received by email (general MR inbox) • If query is in reference to the current status of an application, avoid providing anything more than very general timeframes • Ensure the request and the reply are saved in the applicant's file in the MR general inbox • Place hardcopies in the MR folder 	<ul style="list-style-type: none"> • MR receives the request by email via senior management with a scanned attachment • If the MO requests a timeframe as to when the recommendation will be ready, consult Team Lead/Manager for timelines • All requests and responses to the MO should be saved in the "status updates" folder as well as in the client's folder in the MR general inbox 	<ul style="list-style-type: none"> • MR receives the request by email via senior management with a scanned attachment • If query is in reference to the current status of an application, consult Team Lead/Manager for timelines • All requests and responses to the MO should be saved in the "status updates" folder as well as in the client's folder in the MR general inbox

Closing a file with new MR regs

- Confirm address (check GCMS, NCMS, MR file for use of rep form, call applicant directly if counsel/address unclear)
 - Draft letter using template
 - Use drop-down lists to populate appropriate fields
- Send letter using registered mail through mailroom – specify tracking number required
 - Update Regs tracker to include date sent (Naureen to coordinate updates)
- Update Inventory to indicate file is closed
 - remove from 'Tracking'
 - change to "closed – [specific regulation]" on 'Cases by year rcv'd' tab
 - grey out file on 'Files assigned' tab
 - Adjust numbers in 'Progress Report' tab
- Update NCMS
 - Add event "Closed – Other", disposition "Application Withdrawn"
 - Add comment or note indicating the specific regulation under which the file was closed, and the date that a closure letter was sent (date of closure letter is date file was closed)
 - Change file status to "Archived" as of date of closure
- Update Look Ahead
- Close MR file and return to records for archiving after confirming receipt of letter (place copy of signed letter, mail slip and tracking record in file)
- Change status of file to closed in Apollo
- Move case folder in corporate inbox to "closed cases" folder

Sending Interest Letters

First Interest Letter

1) Retrieve the MR file from CBSA records. If no contact information was located in the MR file, GCMS and NCMS retrieve 3-10-S file.

2) Confirm the applicant's address (**ensure you log all of your efforts in a Note to File – see Apollo for examples/template if required:**)

- Check GCMS (including file/process notes), NCMS (including process notes), the MR file, the applicant's folder in the general mailbox, and any relevant notes in the MR inventory spreadsheet (counsel tab, etc.).
- If there is a Use of Rep form, contact counsel to see if they are still representing the applicant, or if they have a current address for the applicant (if the applicant's current address cannot be otherwise ascertained).
- If there is no counsel/Use of Rep, call the applicant (using the most recently updated telephone number in GCMS/NCMS/on file) to confirm their address (if the applicant cannot be reached, and there is information about any family members in Canada on file, attempt to contact family members).

Note: If calling an applicant's family members, do not provide them with information about the nature of the application, or any personal details about the applicant, unless the family member has been authorized to represent the applicant. You may wish to leave your contact information with the family member, and ask that they pass it along to the applicant so the applicant can contact you directly.

- If the applicant/family members cannot be reached by phone, the interest letter should be sent to the applicant's last known address. This may require liaising with Canadian Embassies if the applicant's last known address is outside of Canada.
- Place a copy of your Note to File in the applicant's MR folder, and an electronic copy of the Note to File in the applicant's folder in the general mailbox.

3) Draft the interest letter using the appropriate template – ensure you have the correct name, address, UCI, and the application month and year (the month and year of the application can be found in the inventory spreadsheet [the date identified in the inventory as the "Processing Date"], and should be verified against the physical file).

- 4) Place a copy of the signed letter in the applicant's MR folder, and a scanned copy of the signed letter in the applicant's "Correspondence" folder in Apollo (make sure to add the document to the "Interest Letters" collection).
- 5) Send the letter using registered mail via the mailroom – specify a tracking number is required, and that "Direct Signature" is required if FedEx is being used.
- 6) Update the "MR Regs Tracker" – both the "Overview" tab, and the "Interest Letters" tab will need to be updated (see "Overview of the Regs Tracker" for more information).

- 7) Update the current version of the "Monthly Performance Report" (aka the Look Ahead), under "CONFIRMATION OF INTEREST LETTERS SENT FOLLOWING COMING-INTO-FORCE OF C-43 MR REGULATIONS".
- 8) Update NCMS to indicate an interest letter has been sent (add event "Analysis and File Preparation", with disposition "Interest Letter Sent to Applicant").
- 9) If the letter is returned to sender, repeat the relevant processes in step 2, above, to see if an alternate address can be located for the applicant (ensure you log all of your efforts in a Note to File). If no further contact information exists, the file can be closed (see SOPs, "Closing a file with regs" for information on how this should be done).
- 10) If the letter is not returned to sender, but no response has been received from the applicant within 60 days of the date of the first interest letter, a second interest letter will need to be sent (see steps below).
- 11) If a response is received from the applicant confirming interest, advise the Manager by email. Ensure the applicant's response and accompanying submissions, if any, are placed in the MR file (and, if applicable, in the applicant's folder in the general mailbox). Update the "MR Regs Tracker", the "Monthly Performance Report", and NCMS to reflect receipt of the applicant's response.
- 12) If the applicant responds indicating an intent to withdraw the MR application, advise the Manager as such by email. Ensure the applicant's response is placed in the MR file (and, if applicable, in the applicant's folder in the general mailbox). Update the "MR Regs Tracker", the "Monthly Performance Report", and NCMS to reflect receipt of the applicant's response.

If the applicant has elected to withdraw the MR application, the file can be closed (see below, "File Closed Letter", and SOPs, "Closing a file with regs" for more information on this process)

Second Interest Letter (if required)

- 1) Retrieve the MR file.
- 2) Draft the interest letter using the appropriate template – ensure you have the correct name, address, UCI, and the application month and year. You will also need the date on which the first interest letter was sent.
- 3) Place a copy of the signed letter in the applicant's MR folder, and a scanned copy of the signed letter in the applicant's "Correspondence" folder in Apollo (make sure to add the document to the "Interest Letters" collection).
- 4) Send the letter using registered mail via the mailroom – specify a tracking number is required, and that "Direct Signature" is required if FedEx is being used.
- 5) Update the "MR Regs Tracker" – both the "Overview" tab, and the "Interest Letters" tab will need to be updated (see "Overview of the Regs Tracker" for more information).
- 6) Update the current version of the "Monthly Performance Report" (aka the Look Ahead), under "CONFIRMATION OF INTEREST LETTERS SENT FOLLOWING COMING-INTO-FORCE OF C-43 MR REGULATIONS".

- 7) Update NCMS to indicate an interest letter has been sent (add event "Analysis and File Preparation", with disposition "Interest Letter Sent to Applicant").
- 8) If the letter is returned to sender, see if an alternate address can be located for the applicant (ensure you log all of your efforts in a Note to File). Place a copy of your Note to File in the applicant's MR folder, and an electronic copy of the Note to File in the applicant's folder in the general mailbox.
- 9) If no further contact information exists, the file can be closed (see SOPs, "Closing a file with regs" for information on how this should be done).
- 10) If the letter is not returned to sender, but no response has been received from the applicant within 60 days of the date of the second interest letter, a file closed letter will need to be sent (see steps below).
- 11) If a response is received from the applicant confirming interest, advise the Manager by email. Ensure the applicant's response and accompanying submissions, if any, are placed in the MR file (and, if applicable, in the applicant's folder in the general mailbox). Update the "MR Regs Tracker", the "Monthly Performance Report", and NCMS to reflect receipt of the applicant's response.
- 12) If the applicant responds indicating an intent to withdraw the MR application, advise the Manager as such by email. Ensure the applicant's response is placed in the MR file (and, if applicable, in the applicant's folder in the general mailbox). Update the "MR Regs Tracker", the "Monthly Performance Report", and NCMS to reflect receipt of the applicant's response.
If the applicant has elected to withdraw the MR application, the file can be closed (see below, "File Closed Letter", and SOPs, "Closing a file with regs" for more information on this process)

File Closed Letter (see SOPs, "Closing a file with regs" for information on how to close a file)

- 1) Retrieve the MR file.
- 2) Draft the file closed letter using the appropriate template – ensure you have the correct name, address, UCI, and the application month and year. You will also need the date on which the second interest letter was sent.
- 3) Place a copy of the signed letter in the applicant's MR folder, and a scanned copy of the signed letter in the applicant's "Correspondence" folder in Apollo (make sure to add the document to the "File Closed Letters" collection).
- 4) Send the letter using registered mail via the mailroom – specify a tracking number is required, and that "Direct Signature" is required if FedEx is being used.
- 5) Update the "MR Regs Tracker" – both the "Overview" tab, and the "Interest Letters" tab will need to be updated (see "Overview of the Regs Tracker" for more information).
- 6) Update the current version of the "Monthly Performance Report" (aka the Look Ahead), under "CONFIRMATION OF INTEREST LETTERS SENT FOLLOWING COMING-INTO-FORCE OF C-43 MR REGULATIONS".

The “MRU Monthly Performance Report” SOPs

The MRU’s “Monthly Performance Report”, formerly known as the “Look Ahead”, is a snapshot of the unit’s monthly performance with respect to MR-related litigation, file assignment and movement, and various, mostly regulations-related, performance statistics.

The “Monthly Performance Report” is due on the first of each month. Senior management takes this document seriously, so it is imperative that the information be accurate.

Two days before the report is due:

- 1) Send an email to the MRU team, asking all analysts to update their file and litigation-related statistics. Ask for a confirmation from each employee that this step has been completed on their part, so that you can commence working on your final updates.

The day before the report is due:

- 1) Send an email to DO asking for CCM updates for the files that are in the pre- and post-disclosure approval streams, the movement of which could not be verified by the MRU. Update the document accordingly with the information you receive.
- 2) Ensure all regulations-related information is properly reflected in the “Applications Closed...” and “Confirmation of Interest Letters...” sections at the bottom of the document. This information is intended to provide more detail on interest letters sent to applicants, and on MR files closed in accordance with the new regulations.
- 3) Update the statistical information on page 1:
 - *Inventory total:* Ensure the total number of MR applications in the “Inventory” as of the last report is properly reflected. Add the new total for the current month in the column beside it. The new inventory total can be found in the MR “Inventory” spreadsheet.
 - *Draft recommendations disclosed:* Reflect how many recommendations were disclosed for the current month. You should be able to capture this information from the “Post-Disclosure Cases in Final Preparations for Approval” section of the “Monthly Performance Report”. It should also be available in the “Inventory” spreadsheet. Ensure to also reflect the total number of recommendations disclosed for the calendar year to date.
 - *Ministerial Decisions:* Reflect any MR decisions rendered for the current month, and the total number of decisions for the year to date. This information should be available in the “Decisions Rendered by Minister” section of the “Monthly Performance Report”, and in the “Inventory” spreadsheet.
 - *Cases Closed with MR Regulations:* Reflect the number of MR applications closed for the current month. This information should be available in the “MR Regs Tracker” (consult the “Overview of the

Regs Tracker" for more information on how to use this spreadsheet). Add the total number of cases closed for the year to date. These numbers should match the information you captured under "Applications Closed..." near the end of the document.

- *Cases Closed (other reasons)*: Reflect the number of cases closed for reasons other than regs-related. For example, if an applicant is deceased, and we closed his or her MR application. Add the total number of cases closed for "other reasons" for the year to date.
- *Applications Accepted*: Add the number of new applications accepted for processing for the current month, and update the total of applications accepted for processing this year to-date. This information should be available in the "Inventory" spreadsheet.
- *Applications Returned Unprocessed*: Add the number of applications returned unprocessed for the current month, and update the total number of applications returned unprocessed this year to date. This information should be available in the "MR Regs Tracker" (consult the "Overview of the Regs Tracker" for more information on how to use this spreadsheet).
- *Monthly Public Inquiries*: Add the total of public inquiries for the current month. This information is logged in the "MR Regs Tracker" (consult the "Overview of the Regs Tracker" for more information on how to use this spreadsheet).
- *Interest Letters Sent*: Reflect the number of interest letters sent for the current month. This information is logged in the "MR Regs Tracker" (consult the "Overview of the Regs Tracker" for more information on how to use this spreadsheet), and should match the information you captured under "Confirmation of Interest Letters..." near the end of the document.

On the day the report is due:

- Ensure the dates at the top and bottom of the document are properly updated.
- Ensure that all numbers in the "File Location" tables add up, and that they are consistent with the information contained in the tables on the following pages.
- Double-check your document for content, formatting and style.
- Create a green docket and a routing slip. Verify that the information on the routing slip is correct.
- Print off two copies of the report (one for DGO and one for DO) and include them BOTH in the same green docket (only one docket and routing slip are needed). Place the DO copy of the report on the left, and the DGO copy of the report on the right side within the green folder.
- Submit the docket to the MRU Manager for review and approval.
- Once approved, archive the document in Apollo, and create a new document for the next report.

The MRU General Mailbox

The MRU's public-facing email address (ministerial_relief.exemptions_ministerielles@cbsa-asfc.gc.ca) allows for applicants, counsel, other areas in CBSA/other departments, and the public to contact the MRU.

The individual(s) assigned to monitor the general inbox are responsible to ensure timely and appropriate action is taken in response to incoming emails.

Types of emails that may be received in the general inbox include (but are not limited to):

- Status update requests
- New applications
- New submissions
- General questions about the MR process

Of note:

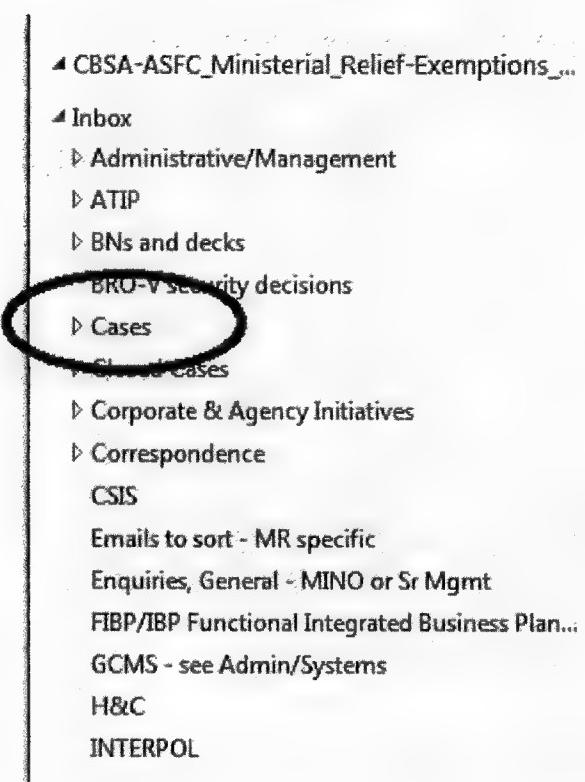
- 1) If the email is from a Member of Parliament (MP), **only the manager can respond**. A proposed response to the MP can be sent to the manager for approval (responses to MPs currently require approval at the DG level).
- 2) Check the list of email recipients before determining how to action the email/to whom the email needs to be sent for action. If the email has been addressed to the Minister, the email should be forwarded to the manager to determine if the MRU should respond, and to follow-up for a potential MinCor.
- 3) If an analyst is already assigned to the case in respect of which the inquiry is made, the inquiry should be forwarded to the analyst for action.
- 4) Incoming inquiries must be logged in the MR Regs Tracker, in the "Public or Applicant Inquiries" tab:



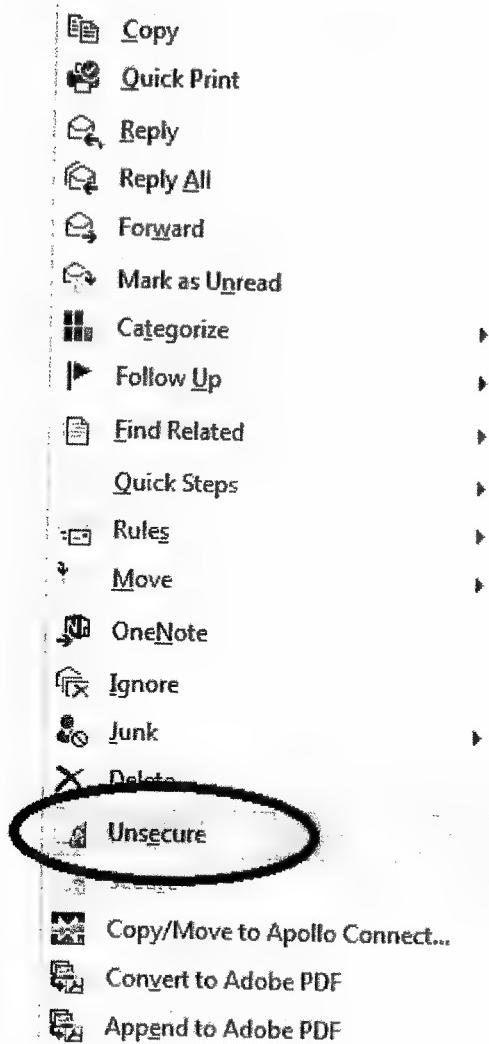
All Current	Files Closed	Interest Letters	Regs Reporting Stats	Public or Applicant Inquiries
-----------------------------	------------------------------	----------------------------------	--------------------------------------	---

- 5) Once the email has been properly actioned, and the inquiry has been logged in the MR Regs Tracker (if applicable), the email and any corresponding response(s) should be filed in the appropriate applicant's folder.

Each active MR application has a corresponding applicant folder in the general mailbox, under "Cases":



If any of the emails are encrypted, they must be **unsecured** before being filed in the general mailbox. This can be done by right-clicking on the email (when it's open in the viewing pane), and selecting "Unsecure":



Encrypted emails in the general mailbox cannot be accessed by anyone to whom the email was not sent. This is why it's important to make sure you only save unencrypted emails in the general mailbox.

The MR Regs Tracker

The regs tracker is designed to track all applications impacted by the Ministerial relief regulations (found at Division 2 of the *Immigration and Refugee Protections Regulations*, R24.1(1) – R24.5, and the associated transitional provisions – see package on MR regulations for more information).

Files that are reflected in the regs tracker include:

- New MR applications (i.e. submitted under subsection 42.1(1) of the *Immigration and Refugee Protection Act*, whether or not the application is accepted for processing)
- Files closed pursuant to the MR regulations (i.e. if an applicant is granted PR status, or if an applicant fails to respond to an interest letter)
- Files for which an interest letter is sent
- Files for which there has been an inquiry about the applicant

Tabs in the Regs Tracker



There are five (5) tabs in the regs tracker, each of which corresponds to a different function or process.

1) The "Overview" Tab



The "Overview" tab is a list of all files contained in the tracker (i.e. all files impacted by the regs).

There are several fields that will need to be filled out for each applicant, including:

- The applicant's name and FOSS ID/UCI
- The section of IRPA under which the MR application was submitted (i.e. 34(2), 35(2), 37(2)(a), 42.1(1) – pre CIF, or 42.1(1) – post CIF)¹ (this information can be found in the MR inventory and/or on the applicant's physical file)
- The date of the application, and when the application was received by the MRU (this information can be found in the MR inventory)
- The action taken with the file – this is a drop-down list, so the appropriate action (e.g. "File Closed", "Interest Confirmed", etc.) can be selected
- The date on which the above action took place
- The legislative grounds for the action taken with the file – again, this is a drop-down list, from which the appropriate legislative grounds can be selected

2) *The "Files Closed" Tab*



The "Files Closed" tab is a list of all the applications that have been closed under the MR regulations.

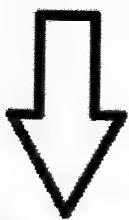
There are again a number of fields to be filled out, including:

- The applicant's name and FOSS ID/UCI
- The date on which the applicant became a permanent resident (this information can be found in GCMS/NCMS)
- The address/telephone number at which the applicant was first contacted (e.g. home address, through counsel, etc.), and the date on which the contact took place
- The method by which the applicant was contacted – this is a drop-down list, which accounts for emails, phone calls, and letters sent to an applicant or his/her counsel
- Subsequent columns accounting for any response received from the applicant/counsel, or any further communications

The MR Regs Tracker accounts for two (2) contacts with an applicant for whom we are closing a file; if more than two (2) contacts are required, please create a second entry for the applicant.

¹ The "pre-CIF" and "post-CIF" options refer to whether the application was submitted prior to or following the coming-into-force (CIF) of the MR regulations; the CIF date is **March 10, 2017**.

3) The "Interest Letters" Tab



The "Interest Letters" tab is a list of all applications for which an interest letter has been sent.

The fields to be completed include:

- The applicant's name and FOSS ID/UCI
- The address/telephone number at which the applicant was first contacted (e.g. home address, through counsel, etc.), and the date on which the contact took place
- The method by which the applicant was contacted – this is a drop-down list, which accounts for emails, phone calls, and letters sent to an applicant or his/her counsel
- The date on which the first and second interest letters, as well as the file closed letter, were sent to the applicant/counsel, with corresponding columns for the method by which the letters were sent (e.g. first interest letter to applicant, etc.)

The MR Regs Tracker accounts for one (1) initial contact, two (2) interest letters, and one (1) file closed letter for applicants for whom we are sending an interest letter; if additional contacts and/or letters are required, please create a second entry for the applicant.

4) The "Regs Reporting Stats" Tab

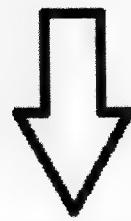


The "Regs Reporting Stats" tab captures all of the stats pertaining to any actions taken under the MR regulations. This information is used, for instance, to update the MRU Monthly Performance Report. All of the statistical information is captured through formulas.

**** DO NOT MANUALLY UPDATE ANY INFORMATION IN THIS TAB ****

Manual updates will result in a loss of the existing formulas, which will render the tracker unable to calculate further statistical information.

5) The "Public or Applicant Inquiries" Tab



The "Public or Applicant Inquiries" tab lists all files for which there has been an inquiry about the applicant (e.g. from the applicant, from counsel, from an MP, from other areas in the CBSA, from other departments, etc.).

The information to be filled out in this tab includes:

- The applicant's name and FOSS ID/UCI
- The date on which the inquiry was received
- The date on which a reply was provided
- The nature of the inquiry – this is a drop-down list, from which the appropriate inquiry type can be selected
- A brief summary of the inquiry

*** It is imperative that this tab be updated promptly when a new inquiry is received, as this information is provided to senior management in the Monthly Performance Report. ***



Notice: Basic HTML

 Canada

You are viewing Basic HTML view. Some features may be disabled.

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BSF766 - Application for a Declaration of Relief under Subsection 42.1(1) of the Immigration and Refugee Protection Act (IRPA)

A link to the Portable Document Format (PDF) of this form is provided below. The content of the form is duplicated in HTML following the PDF link.

[PDF \(1.5 Mb\)](#) [help with PDF files]

PROTECTED B when completed

① Note: Print or type the details of your application in the spaces provided below. **YOU MUST RESPOND FULLY TO ALL QUESTIONS. IF YOU NEED MORE SPACE, USE ADDITIONAL SHEETS OF PAPER.** On each additional sheet, print your name and Canadian immigration identification number in the top righthand corner, sign your initials below your name, and write the page number in the bottom right-hand corner. Also, identify the section and question number for

each answer for which you are providing additional information. This application form is produced by the Canada Border Services Agency and is available free of charge at www.cbsa.gc.ca.

Section A – Applicant Information

Personal Information

1. Canadian immigration ID number (e.g., UCI or other immigration identifier)
2. Surname(s)/Family name(s) / Given name(s)
3. Other name(s) - List below any other names you have used, if applicable
 - Nickname(s):
 - Maiden name:
 - Alias(es):
 - Other(s) (please explain, e.g., legal change of name):
4. Date of birth (DD-MM-YYYY)
5. Gender: Male/Female/Other :
6. Town/city and country of birth
7. Citizenship/Nationality (country)
 - How citizenship/nationality was acquired (e.g., by birth, marriage, etc.)
 - Date citizenship/nationality was acquired (DD-MM-YYYY)
 - Present status
8. Language(s) spoken (include dialects)
9. Official language for correspondence: English/French
 - Select the official language that you would like the CBSA to use with you in correspondence, and in processing your application (including the drafting of a recommendation for Ministerial decision)
10. Current marital status: Single / Common-Law / Married / Legally Separated / Annulled Marriage / Divorced / Widowed / Unknown
11. If you are married or in a common-law relationship, provide the date on which you were married or entered into the common-law relationship (DD-MM-YYYY)
Provide the name and date of birth of your current spouse/common-law partner
 - 12. Surname(s)/Family name(s) / Given name(s)
 - 13. Date of birth (DD-MM-YYYY)
14. Have you previously been married or in a common-law relationship? Yes/No
If YES, provide the following details for your previous spouse(s)/common-law partner(s)
 - 15. Surname(s)/Family name(s) / Given name(s)

- 16. Date of birth (DD-MM-YYYY)
- 17. Type of relationship (e.g., married or common-law)
- 18. In a relationship from (DD-MM-YYYY) To (DD-MM-YYYY)
- 19. Current status of relationship (e.g., legally separated, annulled marriage, divorced, or widowed)

Current Contact Information

⚠ You must immediately notify the Ministerial Relief Unit of any change in this address to avoid your application being closed.

20. Street No.

Street Name

P.O. Box

Apt./Unit

City/Town

District

Province/State

Postal Code/Zip Code

Country

Telephone No.

- Residence/Cellular/Business

Secondary Telephone No.

- Residence / Cellular / Business

E-mail Address

Mailing Address (if different from above)

⚠ You must immediately notify the Ministerial Relief Unit of any change in this address to avoid your application being closed.

21. Street No.

Street Name

P.O. Box

Apt./Unit

City/Town

District

Province/State
Postal Code/Zip Code
Country

Section B – Inadmissibility

Inadmissibility(ies) against which you are seeking a Declaration of Relief

1. Check all boxes that apply and fill in data as appropriate. Under "Inadmissibility grounds", provide specific details, for example: membership in an organization (indicate whether the group was involved with organized criminality, terrorism, espionage, subversion, etc.); being a senior official in a designated regime; engagement in and/or instigation of an act or acts (indicate whether you were engaged in terrorism, espionage, subversion, violence, organized criminality and/or transnational crime (e.g., people smuggling, trafficking in persons, and/or money laundering, etc.)); being a danger to the security of Canada; and/or being a person whose entry into or stay in Canada is restricted pursuant to a relevant decision/ resolution/measure (also known as a sanction) of an international organization of states or association of states, of which Canada is a member. Where applicable, make sure to name the organization(s), identify the designated regime(s), and/or specify the type of act(s) you committed that resulted in your inadmissibility.

- IRPA subsection 34(1)
 - IRPA Paragraph (a) / Inadmissibility grounds / Date found inadmissible (DD-MM-YYYY) / City and country where found inadmissible
 - IRPA Paragraph (b) / Inadmissibility grounds / Date found inadmissible (DD-MM-YYYY) / City and country where found inadmissible
 - IRPA Paragraph (b.1) / Inadmissibility grounds / Date found inadmissible (DD-MM-YYYY) / City and country where found inadmissible
 - IRPA Paragraph (c) / Inadmissibility grounds / Date found inadmissible (DD-MM-YYYY) / City and country where found inadmissible
 - IRPA Paragraph (d) / Inadmissibility grounds / Date found inadmissible (DD-MM-YYYY) / City and country where found inadmissible
 - IRPA Paragraph (e) / Inadmissibility grounds / Date found inadmissible (DD-MM-YYYY) / City and country where found inadmissible
 - IRPA Paragraph (f) / Inadmissibility grounds / Date found inadmissible (DD-MM-YYYY) / City and country where found inadmissible
- IRPA subsection 35(1)

- IRPA Paragraph (b) / Inadmissibility grounds / Date found inadmissible (DD-MM-YYYY) / City and country where found inadmissible
- IRPA Paragraph (c) / Inadmissibility grounds / Date found inadmissible (DD-MM-YYYY) / City and country where found inadmissible
- IRPA subsection 37(1)
 - IRPA Paragraph (a) / Inadmissibility grounds / Date found inadmissible (DD-MM-YYYY) / City and country where found inadmissible
 - IRPA Paragraph (b) / Inadmissibility grounds / Date found inadmissible (DD-MM-YYYY) / City and country where found inadmissible
- I was found to be inadmissible under subsection 19(1) of the former Immigration Act (IA) on security, human or international rights violations, and/or organized criminality grounds
 - Specify provision(s) / Inadmissibility grounds / Date found inadmissible (DD-MM-YYYY) / City and country where found inadmissible

Circumstances of Inadmissibility

Check all boxes below that apply to the circumstances in which you were found inadmissible under the above-noted provisions. If available, attach a copy of the removal order, or inadmissibility or refusal decision.

2. I was found inadmissible to Canada by the Immigration and Refugee Board and a removal order was issued
3. I was refused Canadian temporary residence because there are reasonable grounds to believe I am inadmissible
4. I was refused Canadian permanent residence because there are reasonable grounds to believe I am inadmissible
5. Is your inadmissibility currently under litigation or do you intend to litigate your inadmissibility? Yes/No

Other Inadmissibility(ies)

6. Have you been reported to be or found to be inadmissible to Canada under any other section of the IRPA / the former IA than those listed above? Yes/No

① Note: Inadmissibilities not related to security, human or international rights violations, and/or organized criminality grounds cannot be remedied by a declaration of relief under subsection 42.1(1) of the IRPA; however, this information may be considered in the context of the Minister's assessment of national interest factors.

If YES, provide details of the inadmissibility, including the specific inadmissibility grounds, the date on which you were reported or found to be inadmissible, and the city and country where the report was written/inadmissibility decision was made. Identify the Immigration, Refugees and Citizenship Canada (IRCC), Immigration and Refugee Board (IRB), Canada Border Services Agency (CBSA) or Canadian visa office where the report was written/decision was rendered. Attach a copy of the report, removal order or inadmissibility decision, if available.

Additional Information

Respond to the following questions by checking all boxes that apply.

7. Have you ever been refused refugee status in, or an immigrant or visitor visa to, Canada or any other country? Yes/No
8. Have you ever been refused admission to, or ordered to leave, Canada or any other country? Yes/No
9. Have you ever been sought, arrested, detained or put in jail under any circumstances? (This question is not limited to criminal activity) Yes/No
10. Have you ever used, planned or advocated the use of armed struggle or violence to reach political, religious or social objectives? Yes/No
11. If you were found inadmissible for involvement in a group, organization, military, paramilitary, or designated government or regime, was your involvement voluntary? Yes/No N/A
12. (a) If you were associated with a military, paramilitary, designated government or regime, were you aware of its involvement in armed hostilities? Yes/No N/A
(b) If you were associated with a military, paramilitary, designated government or regime, did you participate in or provide support for its involvement in armed hostilities? Yes/No N/A
13. (a) Have you ever been associated with a group or organization that used, uses, or advocates the use of armed struggle or violence to reach political, religious or social objectives? Yes/No
(b) If YES, were you aware, during your association, of the group's or organization's involvement in violent activities? Yes/No N/A
14. (a) Have you ever engaged in an act of espionage, subversion, terrorism, organized crime and/or transnational crime (e.g., human smuggling, human trafficking, money laundering, etc.)? Yes/No
(b) If YES, was your involvement voluntary? Yes/No N/A

15. Have you ever advocated or been involved in an act of genocide or in the commission of a war crime or crime against humanity, such as: willful killing; torture; attacks; deportation; enslavement; starvation; unlawful destruction of property or other inhumane acts against civilians or prisoners of war; whether in peace or war? Yes/No
16. Are you a person whose entry into or stay in Canada is restricted pursuant to a relevant decision/resolution/measure (also known as a sanction) of an international organization of states or association of states, of which Canada is a member? Yes/No

If the answer to any of the above questions is YES, provide details here (indicate the question number), and include with your application form any available supporting documentation.

Section C – Background Information

Formal Education and Training

1. Starting with the most recent, list all formal education and training. Include all elementary and secondary schools, and post-secondary, technical and vocational institutions attended, regardless of whether you completed the program or obtained a diploma, degree or certificate.
- From (Month Year)
 - To (Month Year)
 - Name of institution and field of study
 - Town, city, district, region, state/province, country
 - Level, degree, diploma or certificate obtained

Employment and Volunteer Work

2. Starting with the most recent, list all employment, including full-time, part-time, temporary and self-employment, and volunteer work from the age of 16 to present. **DO NOT LEAVE ANY GAPS IN TIME.** If you were not working, provide information on what you were doing (e.g., unemployed, studying, travelling, retired, volunteering, in detention, etc.)
- From (Month Year)
 - To (Month Year)
 - Occupation/Job Title
 - Employer/company/organization name
 - Town, city, district, region, state/province, country
 - Duties/Responsibilities

Membership in and Association with Organization(s)

3. Starting with the most recent, list all organizations in which you have participated, or of which you were (or still are) a member, with which you were (or still are) associated, and/or which you supported (or are still supporting). Under "Type of organization", identify the type of group (e.g., political, social, youth, student, etc.) or vocational organization (e.g., trade union, professional associations, etc.). Make sure to list any applicable wings, factions, splinter groups, etc., to which you belong(ed), with which you associate(d) or which you support(ed). Do not use abbreviations.

I have never belonged to, participated in, associated with, contributed to, assisted or supported any organization, financially or otherwise.

- From (Month Year)
- To (Month Year)
- Name of organization
- Type of organization
- Town, city, district, region, state/province, country
- Title(s), role(s) and/or position(s) held
- Activities/Duties/Responsibilities

Government Position(s) Held

4. Starting with the most recent, list all government position(s) held, such as office worker, civil servant, jail guard, judge, intelligence officer, etc. Do not use abbreviations.

I have never held a government position.

- From (Month Year)
- To (Month Year)
- Level of jurisdiction (e.g., national, regional, municipal)
- Department/Branch
- Town, city, district, region, state/province, country
- Title(s), role(s) and/or position(s) held
- Duties/Responsibilities

5. If any of the government positions you held involved intelligence gathering and/or analysis, indicate which position(s), and provide details of your activities here:

Military, Paramilitary and/or Police Service

6. Have you performed ANY type of military (e.g., armed forces, militia, military police, territorial defense, etc.), paramilitary or police service? Yes/No

- If YES, complete the following table for all service, whether voluntary or mandatory (required to serve, e.g. obligatory national service), regular or reserve, full- or part-time, in any country.

7. Type of service: military (be specific), paramilitary or police
8. Name of organization
9. Nature of participation: Voluntary/Mandatory
10. Served from (DD-MM-YYYY) Served to (DD-MM-YYYY)
11. Your title(s) and rank(s) at the start and conclusion of your service
12. Awards, medals and commendations received (include date(s))
13. Disciplinary measures against you (e.g., fines, sentence, jail, court martial, dishonourable discharge, etc.). Include date(s)
14. Country(ies) in which service was performed
15. Describe your role(s), duty(ies) and responsibility(ies) (e.g., guard, border officer, police constable, detective, infantryperson, artillery, military police, radio operator, special forces, intelligence officer, interrogation, etc.). Identify all ranks/positions and corresponding dates of promotion. List all locations of service (bases/ town/ cities/ areas and country), and the associated: dates; branches and units in which you served; the number of people you supervised; the name(s) and rank(s) of your immediate supervising officer, your unit/regimental commander, and the operational group/corps commander:
16. Type of service: military (be specific), paramilitary or police
17. Name of organization
18. Nature of participation: Voluntary/Mandatory
19. Served from (DD-MM-YYYY) Served to (DD-MM-YYYY)
20. Your title(s) and rank(s) at the start and conclusion of your service
21. Awards, medals and commendations received (include date(s))
22. Disciplinary measures against you (e.g., fines, sentence, jail, court martial, dishonourable discharge, etc.). Include date(s)
23. Country(ies) in which service was performed
24. Describe your role(s), duty(ies) and responsibility(ies) (e.g., guard, border officer, police constable, detective, infantryperson, artillery, military police, radio operator, special forces, intelligence officer, interrogation, etc.). Identify all ranks/positions and corresponding dates of promotion. List all locations of service (bases/ town/ cities/ areas and country), and the associated: dates; branches and units in which you served; the number of people you supervised; the name(s) and rank(s) of your immediate supervising officer, your unit/regimental commander, and the operational group/corps commander:
25. If MANDATORY was selected for any of the military, paramilitary, or police services you completed, provide details in the following table.

- Name of organization
 - Was there a minimum length of service required? Yes/No
 - If YES, what was the minimum length of service required?
 - Was there a draft age (age when required to join)? Yes/No
 - If YES, what was the draft age?
 - Under what circumstances did your service end (e.g., completed service, deserted, medical reasons, etc.)?
26. Have you ever participated in, provided, or received any form of military, paramilitary or police training, whether or not you actually joined those services? This includes, but is not limited to: security training; leadership training; strategy and strategic planning; skills training (e.g., weapons, equipment, field craft, fitness, etc.); tactics, techniques, and procedures associated with a given role; support to operations (e.g., logistics, administration, food services, medical, etc.); specialized training (e.g., counter-insurgency, commando, intelligence, unarmed combat, interrogation, sniper, special or covert operations, etc.)? Yes/No
 - If YES, provide details (e.g., type, length, dates and locations of training, course content, name of instructing organization, etc.). Be specific:
27. Did you participate, directly or indirectly, in any conflict(s), violence, exchange(s) of weapon fire, etc., during any of your military, paramilitary, or police service, or during your training? Yes/No
 - If YES, provide details of the incident(s) and the circumstances. Be specific:
28. Have you ever witnessed or participated in ill treatment of prisoners or civilians, hostage-taking, looting, or desecration of cultural or religious artifacts or buildings? Yes/No
 - If YES, provide details. Be specific:

Criminal History

⚠ (Immediately notify the Ministerial Relief Unit of any change in criminal activity, charges, and/or your criminal record)

29. Have you ever committed/been party to or been arrested for, charged with, on trial for, or convicted of a crime or offence, or subject to any arrest warrants or criminal proceedings, in any country, including Canada? Yes/No
 - If YES, complete the following table, and attach any supporting records (e.g., charge sheet, criminal record, pardon or rehabilitation confirmation, etc.) if available. For "Offence type and code", describe the type of offence and list the applicable section number(s) and title(s) of the associated criminal/civil

legislation(s) (e.g., "operating a vehicle while impaired (driving under the influence of alcohol or drugs /DUI), Canadian Criminal Code (CC) 253(1)(b)"; "assault causing bodily harm, CC 267(b)"; "receipt of stolen goods, 18 U.S. Code § 2315", etc.). List all offences and crimes, including those for which you were not charged.

30. Crime/offence type and code (if applicable)
31. Date of alleged crime(s) or offence(s) (DD-MM-YYYY)
32. Date charge(s) laid (DD-MM-YYYY)
33. City and country where offence occurred/charges laid
34. Date of disposition (DD-MM-YYYY)
35. Details of disposition (identify the outcome of the charges (e.g., withdrawn, dismissed, acquittal, conviction, suspended or deferred sentence, guilty plea, absolute or conditional discharge, peace bond, probation order, etc.), and indicate which court rendered the disposition). If you were convicted, clearly identify your conviction:
36. Were you sentenced? Yes/No
 - If YES, what was the sentence imposed?
37. Date sentence served
 - From Month Year
 - To Month Year
38. Institution and location (city and country) where sentence was served
39. Did you complete serving your full sentence? Yes/No
 - If NO, provide reason(s)/explanation (e.g., received credit for pre-trial time in custody, granted parole (released early but subject to supervision, restrictions and conditions), granted compassionate release, served two or more sentences simultaneously, etc.):
40. Have you received a record suspension (pardon), had your record expunged or been deemed to be rehabilitated? Yes/No
 - If YES, provide details (include date(s) and pardoning/granting body(ies)), and attach supporting records if available.
41. Crime/offence type and code (if applicable)
42. Date of alleged crime(s) or offence(s) (DD-MM-YYYY)
43. Date charge(s) laid (DD-MM-YYYY)
44. City and country where offence occurred or charges were laid
45. Date of disposition (DD-MM-YYYY)
46. Details of disposition (identify the outcome of the charges (e.g., withdrawn, dismissed, acquittal, conviction, suspended or deferred sentence, guilty plea, absolute or conditional discharge, peace bond, probation order, etc.), and indicate which court rendered the disposition). If you were convicted, clearly identify your conviction:
47. Were you sentenced? Yes/No

- If YES, what was the sentence imposed?

48. Date sentence served

- From Month Year
- To Month Year

49. Institution and location (city and country) where sentence was served

50. Did you complete serving your full sentence? Yes/No

- If NO, provide reason(s)/explanation (e.g., received credit for pre-trial time in custody, granted parole (released early but subject to supervision, restrictions and conditions), granted compassionate release, served two or more sentences simultaneously, etc.):

51. Have you received a record suspension (pardon), had your record expunged or been deemed to be rehabilitated? Yes/No

- If YES, provide details (include date(s) and pardoning/granting body(ies)), and attach supporting records if available.

Countries of Previous Residence or International Travel

52. Starting with the most recent, list all places in which you have resided, or to which you have travelled/visited internationally, from the age of 16 to present. DO NOT LEAVE ANY GAPS IN TIME. For "Status in country", choose one of the following options: citizen; permanent resident; visitor; worker; student; protected person; refugee claimant; foreign national; or other (if "other", explain). For "Purpose of travel", indicate the reasons for your travel (e.g., business, school, leisure, intending immigrant, asylum seeker, etc.).

- From (DD-MM-YYYY)
- To (DD-MM-YYYY)
- City and country
- Status in country
- Purpose of travel

53. If any of the above travel was related to, paid for, or conducted on behalf of any group(s), organization(s), military(ies), paramilitary(ies), or government(s), including those relating to your inadmissibility, indicate the applicable letter(s) from the table above and provide details (e.g., specific information about the nature and purpose of the trip, your activities, how and why the trip was subsidized and/or conducted on behalf of the entity, etc.):

Section D - Appointment of Representative

You do not need to hire an immigration representative; it is your choice. No one can guarantee that the Minister of Public Safety and Emergency Preparedness will make a declaration of relief in your case.

A representative is someone who has provided advice or guidance to you prior to submitting your application, following the submission of your application, and/or someone who has your permission to conduct business on your behalf with the CBSA.

YOU MAY ONLY HAVE ONE REPRESENTATIVE AT A TIME PER APPLICATION.

The Immigration and Refugee Protection Act makes it an offence for any person who is not authorized under the Act to knowingly, directly or indirectly, represent or advise a person for consideration - or offer to do so - in connection with a proceeding or application under that Act. Consideration includes money or any other form of compensation or reward.

Are you using a representative with respect to your Application for a Declaration of Relief?
Yes/No

If YES, you must complete the Use of a Representative form (IMM 5476), available free of charge at www.cic.gc.ca. Include the completed form with your Application for a Declaration of Relief.

⚠ You must immediately advise of any change in your representation, including cancellation, or a change of address, by submitting a new, completed and signed IMM 5476 to the Ministerial Relief Unit.

Section E - Applicant Declaration

- If you DID NOT require the assistance of an interpreter to complete this form, you must complete DECLARATION A.
- If you DID require the assistance of an interpreter to complete this form, you must complete DECLARATION B. Make sure that all the questions, answers and instructions in the form, including this one, are interpreted to you before you sign.
- **Declaration A:** I declare that I am able to read English and that I have fully read and fully understood the entire contents of this form and all attached documents. I declare that I have fully and truthfully answered all questions and provided all relevant information on this application form including, if applicable, any additional pages or documents. I understand that providing false or misleading information is a serious offence, could reflect negatively on my application, and may be grounds for my prosecution.

- Signature of Applicant
- Date (DD-MM-YYYY)
- A parent or legal guardian must sign on behalf of applicants under 18 years of age:
 - Full Name of Parent or Legal Guardian (type or print)
 - Relationship to Applicant
 - Signature of Parent or Legal Guardian
 - Date (DD-MM-YYYY)
- **Declaration B:** I declare that the entire contents of this form and all attached documents have been interpreted to me, and that I have fully understood the entire contents of this form and all attached documents. I declare that I have fully and truthfully answered all questions and provided all relevant information on this application form including, if applicable, any additional pages or documents. I understand that providing false or misleading information is a serious offence, could reflect negatively on my application, and may be grounds for my prosecution.
 - Signature of Applicant
 - Date (DD-MM-YYYY)
 - A parent or legal guardian must sign on behalf of applicants under 18 years of age:
 - Full Name of Parent or Legal Guardian (type or print)
 - Relationship to Applicant
 - Signature of Parent or Legal Guardian
 - Date (DD-MM-YYYY)

Section F - Interpreter Declaration

I, (print full name clearly) , hereby declare that I have accurately interpreted the entire contents of this form and all attached documents for the applicant from the English language to the language (state dialect, if any).

I am proficient in both of these languages (and dialect, if any), and was able to communicate effectively with the applicant. The applicant has assured me that they have understood the entire contents of this form and all attached documents and the answers provided, as interpreted by me.

- Signature of Interpreter
- Date (DD-MM-YYYY)

Section G - Privacy Statement

The information you provide in this document is collected under the authority of the Immigration and Refugee Protection Act (IRPA) and the Immigration and Refugee Protection Regulations (IRPR), for the purpose of processing your Application for a Declaration of Relief under subsection 42.1(1) of the IRPA. The information may be disclosed to Immigration, Refugees and Citizenship Canada; the Immigration and Refugee Board; the Canadian Security Intelligence Service; the Royal Canadian Mounted Police; the United States National Criminal Information Center; INTERPOL; and similar organizations to obtain information that will be used to help inform the Canada Border Services Agency's (CBSA) recommendation to the Minister of Public Safety and Emergency Preparedness on whether or not to make a declaration of relief.

Refusal to provide the requested information may result in processing delays or your application not being accepted for processing. Individuals have the right to access and to make corrections to their personal information under the Privacy Act. The information collected is described within Info Source under the Personal Information Bank CBSA PPU 1504, which is detailed within the CBSA Info Source Chapter. Should you have concerns about the CBSA's handling of your personal information, you have a right to file a complaint with the Privacy Commissioner of Canada.

Section H - General Information

Pursuant to subsection 42.1(1) of the Immigration and Refugee Protection Act (IRPA) and related regulations, you are eligible to apply for a declaration of relief (commonly referred to as "Ministerial relief") if you have been determined to be inadmissible to Canada under section 34 (security), paragraphs 35(1)(b) or (c) (human or international rights violations), and/ or subsection 37(1) of the IRPA (organized criminality), resulting in a removal order being issued against you and/or your application for temporary or permanent residence being refused. You are also eligible to apply if you were found to be inadmissible to Canada under a corresponding provision of subsection 19(1) of the former Immigration Act (IA). Foreign nationals who are inadmissible under IRPA paragraph 35(1)(a) or the former IA paragraph 19(1)(j) (commission of genocide, war crimes or crimes against humanity) are not eligible for Ministerial relief. Relief applications may not be submitted until all rights of judicial review against the immigration refusal or removal order have expired or been exhausted. **Applications which do not meet these requirements or which do not provide the mandatory information will be returned unprocessed.**

The Minister of Public Safety and Emergency Preparedness (the Minister) may declare that the matters referred to in the aforementioned provisions of the IRPA do not constitute inadmissibility in your case if you satisfy the Minister that it is not contrary to the national interest. In considering whether to make a declaration of relief, the Minister may only take into account national security and public safety considerations, but his or her analysis is not limited to considering the danger that the applicant presents to the public or the security of Canada. The onus to satisfy the Minister that making a declaration of relief is not contrary to the national interest rests with the foreign national applying for relief and not with the CBSA or the Minister to prove otherwise.

The purpose of this application is to present the Minister with a specific set of information pertaining to the circumstances of your case, in addition to any supplementary submissions you may wish to include. This information may assist the Minister in his/her decision to grant or deny relief from your inadmissibility.

This application is made available by the Canada Border Services Agency (CBSA) and is not sold to applicants. It is available free of charge on the CBSA's website at www.cbsa.gc.ca.

Answering the questions

The information you provide in your Application for a Declaration of Relief, and any accompanying submissions, must be complete, true and correct; otherwise, your application may not be accepted for processing. Make sure you understand the instructions and the questions before you write your answers. If you do not understand a question, ask someone to explain it to you.

Give details where applicable, and include dates, as well as names of places and persons. **YOU MUST RESPOND FULLY TO ALL QUESTIONS. IF YOU NEED MORE SPACE, USE ADDITIONAL SHEETS OF PAPER.** On each additional sheet, write your name and Canadian immigration identification number in the top right-hand corner, sign your initials beside your name, and write the page number in the bottom right-hand corner. Also, identify the section and question number for which you are providing additional information.

Sign the applicant's declaration at the end of the form when you are finished (see Section E - Applicant Declaration: Declaration A). Note that a parent or legal guardian must sign for a person under 18 years of age.

Language

You can obtain and complete the Application for a Declaration of Relief in either of Canada's official languages: English or French. If you do not understand English or French, you will need to use an interpreter. Make sure that the interpreter reads to you all of the instructions and questions in the form, that you understand the questions and instructions, and that the interpreter understands your answers. **YOU ARE RESPONSIBLE FOR THE INFORMATION PROVIDED IN THIS APPLICATION AND ANY ATTACHMENTS OR SUBMISSIONS THAT YOU CHOOSE TO PROVIDE.** You and the interpreter must both sign the form when you are finished (see Section E - Applicant Declaration: Declaration B; and Section F - Interpreter Declaration).

Applying for a Declaration of Relief

A completed and signed Application for a Declaration of Relief under Subsection 42.1(1) of the Immigration and Refugee Protection Act, and any related submissions, should be sent to the CBSA Ministerial Relief Unit (MRU) at the following address:

Ministerial Relief Unit
Canada Border Services Agency
100 Metcalfe Street, 10th floor
Ottawa, Ontario K1A 0L8

or via email at:

Ministerial_Relief_Exemptions_Ministerielles@cbsa-asfc.gc.ca.

If your information changes or if you want to add information, you must inform the CBSA MRU. Circle or underline the information you changed or added to your Application for a Declaration of Relief, sign and date the changed pages, and send those pages (not a copy) to the CBSA MRU at the address specified above.

For more information, consult the [Guide to Applying for a Declaration of Relief under Subsection 42.1\(1\) of the Immigration and Refugee Protection Act](#).

Date modified:

2017-12-21

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Avis: Version HTML simplifiée

Vous naviguez présentement sur la version HTML simplifiée de cette page. Certaines fonctionnalités peuvent être désactivées.

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BSF766 - Demande de déclaration de dispense visée au paragraphe 42.1(1) de la Loi sur l'immigration et la protection des réfugiés (LIPR)

Un lien vers ce formulaire en format de document portable (PDF) est fourni ci-dessous. Le contenu du formulaire est reproduit en format HTML après le lien PDF.

[PDF \(1,5 Mo\)](#) [aide sur les fichiers PDF]

PROTÉGÉ à une fois rempli

❶ Remarque :

- Écrivez en caractères d'imprimerie ou dactylographiez les renseignements concernant votre demande dans les espaces ci-dessous.
- **VOUS DEVEZ FOURNIR UNE RÉPONSE COMPLÈTE À TOUTES LES QUESTIONS.**

- **SI VOUS AVEZ BESOIN DE PLUS D'ESPACE, UTILISEZ DES FEUILLES SUPPLÉMENTAIRES.** Sur chaque feuille supplémentaire, écrivez en caractères d'imprimerie votre nom et votre numéro d'identification canadien aux fins de l'immigration dans le coin supérieur droit, apposez vos initiales sous votre nom et inscrivez le numéro de la page dans le coin inférieur droit. En outre, indiquez la section visée ainsi que le numéro de la question à laquelle vous répondez en fournissant des renseignements supplémentaires.
- Ce formulaire de demande est produit par l'Agence des services frontaliers du Canada et peut être téléchargé gratuitement à partir du site Web www.asfc.gc.ca.

Section A – Renseignements sur le demandeur

Renseignements personnels

1. Numéro d'identification canadien aux fins de l'immigration (p. ex. IUC ou tout autre numéro d'identification aux fins de l'immigration)
2. Nom(s) de famille / Prénom(s)
3. Autre(s) nom(s) - Indiquez ci-dessous tout autre nom que vous avez déjà utilisé, le cas échéant
 - Surnom(s) :
 - Nom de jeune fille :
 - Alias :
 - Autre(s) (veuillez fournir des précisions : p. ex. changement légal de nom) :
4. Date de naissance (JJ-MM-AAAA)
5. Sexe : Homme/Femme/Autre :
6. Village/ville et pays de naissance
7. Citoyenneté/nationalité (pays)
 - Mode d'obtention de la citoyenneté/ nationalité (p. ex. à la naissance ou par mariage)
 - Date d'obtention de la citoyenneté/ nationalité (JJ-MM-AAAA)
 - Situation actuelle
8. Langue(s) parlée(s) (y compris les dialectes)
9. Langue officielle aux fins de correspondance : Français/Anglais
 - Choisissez la langue officielle dans laquelle vous souhaitez recevoir votre correspondance de l'ASFC et dans laquelle vous préférez que votre demande soit traitée (y compris pour la rédaction d'une recommandation aux fins de décision ministérielle).

10. État matrimonial: Célibataire / Union de fait / Marié / Séparé légalement / Mariage annulé / Divorcé / Veuf / Inconnu

11. Si vous êtes marié ou vivez en union de fait, indiquez la date à laquelle vous vous êtes marié ou vous avez commencé à vivre en union de fait (JJ-MM-AAAA)

Indiquez le nom et la date de naissance de votre conjoint ou conjoint de fait actuel

- 12. Nom(s) de famille / Prénom(s)
- 13. Date de naissance (JJ-MM-AAAA)

14. Avez-vous déjà été marié ou dans une union de fait? Oui/Non

Si OUI, fournissez les renseignements suivants sur votre conjoint(s) ou conjoint(s) de fait précédent

- 15. Nom(s) de famille / Prénom(s)
- 16. Date de naissance (JJ-MM-AAAA)
- 17. Type de relation (p. ex. mariage ou union de fait)
- 18. Date de début de la relation (JJ-MM-AAAA) Date de fin de la relation (JJ-MM-AAAA)
- 19. Situation actuelle de la relation (p. ex. séparé légalement, mariage annulé, divorcé ou veuf)

Coordonnées actuelles

⚠ (Vous devez informer immédiatement l'Unité de la dispense ministérielle de tout changement d'adresse afin d'éviter la fermeture de votre demande.)

20. Numéro

Nom de la rue

Case postale

App./unité

Ville

Arrondissement

Province/État

Code postal

Pays

Nº de téléphone

- Domicile/Cellulaire/Travail

Nº de téléphone secondaire

- Domicile/Cellulaire/Travail

Adresse de courriel

Adresse postale (si elle diffère de l'adresse ci-dessus)

⚠ (Vous devez informer immédiatement l'Unité de la dispense ministérielle de tout changement d'adresse afin d'éviter la fermeture de votre demande.)

21. Numéro

Nom de la rue

Case postale

App./unité

Ville

Arrondissement

Province/État

Code postal

Pays

Section B – Interdiction de territoire**Motifs d'interdiction de territoire au titre desquels vous demandez une déclaration de dispense ministérielle**

1. Veuillez cocher toutes les cases applicables et fournir les renseignements demandés, s'il y a lieu. Veuillez fournir des renseignements précis sous « Motifs d'interdiction de territoire », par exemple : avoir appartenu à une organisation (précisez si le groupe faisait partie du crime organisé ou se livrait au terrorisme, à l'espionnage, à la subversion, etc.); avoir occupé un poste de rang supérieur au sein d'un régime désigné; avoir participé à un ou à des actes, ou en avoir été l'instigateur (précisez si vous avez fait partie du crime organisé ou si vous vous êtes livré au terrorisme, à l'espionnage, à la subversion, à la violence ou à la criminalité transnationale [p. ex. passage de clandestins, traite de personnes, blanchiment d'argent]); constituer un danger pour la sécurité du Canada; être une personne dont l'entrée ou le séjour au Canada est limité au titre d'une décision, d'une résolution ou d'une mesure (aussi appelée « sanction ») d'une organisation internationale d'États ou d'une association d'États dont le Canada est membre. Le cas échéant, veillez à indiquer la ou les organisations visées, à identifier le ou les régimes désignés ou à préciser le type d'actes que vous avez commis et qui justifient votre interdiction de territoire.

- Paragraphe de la LIPR 34(1)

- Alinéa de la LIPR (a) / Motifs d'interdiction de territoire / Date de la décision d'interdiction de territoire (JJ-MM-AAAA) / Ville et pays de la décision d'interdiction de territoire
- Alinéa de la LIPR (b) / Motifs d'interdiction de territoire / Date de la décision d'interdiction de territoire (JJ-MM-AAAA) / Ville et pays de la décision d'interdiction de territoire
- Alinéa de la LIPR (b.1) / Motifs d'interdiction de territoire / Date de la décision d'interdiction de territoire (JJ-MM-AAAA) / Ville et pays de la décision d'interdiction de territoire
- Alinéa de la LIPR (c) / Motifs d'interdiction de territoire / Date de la décision d'interdiction de territoire (JJ-MM-AAAA) / Ville et pays de la décision d'interdiction de territoire
- Alinéa de la LIPR (d) / Motifs d'interdiction de territoire / Date de la décision d'interdiction de territoire (JJ-MM-AAAA) / Ville et pays de la décision d'interdiction de territoire
- Alinéa de la LIPR (e) / Motifs d'interdiction de territoire / Date de la décision d'interdiction de territoire (JJ-MM-AAAA) / Ville et pays de la décision d'interdiction de territoire
- Alinéa de la LIPR (f) / Motifs d'interdiction de territoire / Date de la décision d'interdiction de territoire (JJ-MM-AAAA) / Ville et pays de la décision d'interdiction de territoire
- Paragraphe de la LIPR 35(1)
 - Alinéa de la LIPR (b) / Motifs d'interdiction de territoire / Date de la décision d'interdiction de territoire (JJ-MM-AAAA) / Ville et pays de la décision d'interdiction de territoire
 - Alinéa de la LIPR (c) / Motifs d'interdiction de territoire / Date de la décision d'interdiction de territoire (JJ-MM-AAAA) / Ville et pays de la décision d'interdiction de territoire
- Paragraphe de la LIPR 37(1)
 - Alinéa de la LIPR (a) / Motifs d'interdiction de territoire / Date de la décision d'interdiction de territoire (JJ-MM-AAAA) / Ville et pays de la décision d'interdiction de territoire
 - Alinéa de la LIPR (b) / Motifs d'interdiction de territoire / Date de la décision d'interdiction de territoire (JJ-MM-AAAA) / Ville et pays de la décision d'interdiction de territoire
- J'ai été jugé interdit de territoire aux termes du paragraphe 19(1) de l'ancienne Loi sur l'immigration (LI) pour des motifs de sécurité, d'atteinte aux droits humains ou internationaux, ou de criminalité organisée

- Précisez la ou les dispositions / Motifs d'interdiction de territoire / Date de la décision d'interdiction de territoire (JJ-MM-AAAA) / Ville et pays de la décision d'interdiction de territoire

Circonstances de l'interdiction de territoire

Cochez, ci-dessous, tous les énoncés décrivant les circonstances de votre interdiction de territoire au titre des dispositions susmentionnées. Si possible, joignez au présent formulaire une copie de la mesure de renvoi ou de la décision d'interdiction de territoire ou de refus.

2. J'ai été jugé interdit de territoire au Canada par la Commission de l'immigration et du statut de réfugié et une mesure de renvoi a été prononcée
3. Ma demande de résidence temporaire canadienne a été rejetée, car il existe des motifs raisonnables de croire que je suis interdit de territoire
4. Ma demande de résidence permanente canadienne a été rejetée, car il existe des motifs raisonnables de croire que je suis interdit de territoire
5. Votre interdiction de territoire fait-elle actuellement l'objet d'une procédure judiciaire ou entendez-vous entreprendre une procédure judiciaire pour contester votre interdiction de territoire? Oui/Non

Autres circonstances de l'interdiction de territoire

6. Avez-vous été désigné ou jugé interdit de territoire au Canada au titre de toute autre disposition de la LIPR ou de l'ancienne LI, outre celles répertoriées ci-dessus? Oui/Non

i Remarque : La déclaration de dispense ne peut pas servir de voie de recours dans les cas d'interdiction de territoire non reliée à des motifs de sécurité, d'atteinte aux droits humains ou internationaux, ou de criminalité organisée aux termes du paragraphe 42.1(1) de la LIPR; toutefois, l'information fournie aux présentes peut être prise en considération dans le contexte de l'évaluation, par le ministre, des facteurs d'intérêt national.

Si OUI, veuillez fournir des renseignements sur l'interdiction de territoire, y compris les motifs précis de cette décision, la date à laquelle vous avez été désigné ou jugé interdit de territoire au Canada, ainsi que la ville et le pays dans lequel le rapport a été établi ou la décision d'interdiction de territoire a été prise. Précisez également le bureau canadien des visas ou le bureau d'Immigration, Réfugiés et Citoyenneté

Canada (IRCC), de la Commission de l'immigration et du statut de réfugié (CISR) ou de l'Agence des services frontaliers du Canada (ASFC) dans lequel le rapport a été établi ou la décision d'interdiction de territoire a été prise. Si possible, joignez au présent formulaire une copie du rapport, de la mesure de renvoi ou de la décision d'interdiction de territoire.

Renseignements supplémentaires

Répondez aux questions suivantes en cochant toutes les cases pertinentes :

7. Vous êtes-vous déjà vu refuser le statut de réfugié au Canada ou dans un autre pays, ou un visa d'immigrant ou de visiteur pour le Canada ou tout autre pays?

Oui/Non

8. Vous êtes-vous déjà vu refuser l'admission au Canada ou dans tout autre pays, ou avez-vous déjà reçu l'ordre de quitter le Canada ou tout autre pays? Oui/Non

9. Avez-vous déjà été recherché, arrêté, détenu ou emprisonné, peu importe les circonstances? (Cette question ne porte pas seulement sur l'emprisonnement en raison d'activités criminelles.) Oui/Non

10. Avez-vous déjà eu recours, planifié d'avoir recours ou prôné le recours à la lutte armée ou à la violence dans le but d'atteindre des objectifs politiques, religieux ou sociaux? Oui/Non

11. Si vous avez été jugé interdit de territoire en raison de votre participation aux activités d'un groupe, d'une organisation, d'un groupe militaire ou paramilitaire, ou d'un gouvernement ou d'un régime désigné, votre participation était-elle volontaire?
Oui/Non S.O.

12. (a) Si vous avez été associé à un groupe militaire ou paramilitaire, ou à un gouvernement ou régime désigné, étiez-vous au courant de sa participation à des activités belligérantes? Oui/Non S.O.

(b) Si vous avez été associé à un groupe militaire ou paramilitaire, ou à un gouvernement ou régime désigné, avez-vous participé à des activités belligérantes ou avez-vous fourni un soutien dans le cadre de telles activités?
Oui/Non S.O.

13. (a) Avez-vous déjà été associé ou appartenu à un groupe ou à une organisation qui a ou qui a eu recours à la lutte armée ou à la violence, ou qui prône un tel recours, afin d'atteindre des objectifs politiques, religieux ou sociaux? Oui/Non

(b) Si OUI, étiez-vous au courant durant votre association avec ce groupe ou cette organisation de ses activités violentes? Oui/Non S.O.

14. (a) Avez-vous déjà fait partie du crime organisé ou vous êtes-vous déjà livré à l'espionnage, à la subversion, au terrorisme ou à la criminalité transnationalen (p. ex. passage de clandestins, traite de personnes, blanchiment d'argent)? Oui/Non

(b) Si OUI, votre participation était-elle volontaire? Oui/Non S.O.

15. Avez-vous déjà pris part à un acte de génocide, à un crime de guerre ou à un crime contre l'humanité, ou avez-vous déjà prôné de tels actes ou crimes, par exemple l'assassinat, la torture, l'agression, la déportation, la réduction en esclavage, la privation de nourriture, la destruction illégale de biens ou d'autres actes inhumains commis contre des civils ou des prisonniers de guerre, que ce soit en temps de guerre ou en temps de paix? Oui/Non

16. Votre entrée ou votre séjour au Canada est-il limité au titre d'une décision, d'une résolution ou d'une mesure (aussi appelée « sanction ») d'une organisation internationale d'États ou d'une association d'États dont le Canada est membre? Oui/Non

Si vous avez répondu OUI à l'une ou l'autre des questions ci-dessus, veuillez fournir les renseignements pertinents dans cet espace (en indiquant le numéro de la question) et joindre à votre demande tous les documents justificatifs disponibles.

Section C – Renseignements de base

Scolarité et formation

1. En commençant par l'élément le plus récent, énumérez l'ensemble de votre scolarité ou de votre formation formelle. Indiquez tous les établissements primaires, secondaires, postsecondaires, techniques et de formation professionnelle que vous avez fréquentés, peu importe si vous avez achevé le programme suivi ou obtenu un diplôme, un grade ou un certificat.

- De (Mois Année)
- À (Mois Année)
- Nom de l'établissement et domaine d'études
- Village, ville, district, région, État/province et pays
- Niveau, grade, diplôme ou certificat obtenu

Emplois et bénévolat

2. En commençant par le plus récent, énumérez tous les emplois que vous avez occupés, qu'il s'agisse d'emplois à temps plein, à temps partiel, temporaires ou indépendants, et tout le travail bénévole que vous avez effectué depuis l'âge de 16 ans. **N'OMETTEZ PAS DE PÉRIODE SANS FOURNIR D'EXPLICATION.** Si vous ne travailliez pas, donnez des renseignements sur ce que vous faisiez (p. ex. chômage, études, voyage, retraite, bénévole, en détention, etc.).

- De (Mois Année)
- À (Mois Année)
- Titre du poste
- Nom de l'employeur, de l'entreprise ou de l'organisation
- Village, ville, district, région, État/province et pays
- Fonctions / responsabilités

Appartenance et association à des organisations

3. En commençant par l'élément le plus récent, énumérez l'ensemble des organisations aux activités desquelles vous avez participé; dont vous êtes ou vous avez été membre; auxquelles vous êtes ou vous étiez associé; que vous soutenez ou que vous avez soutenu. Précisez sous « Type d'organisation » le type de groupe (p. ex. politique, social, étudiant, de jeunes, etc.) ou d'organisation professionnelle (p. ex. syndicat, associations professionnelles, etc.). Veillez indiquer toute branche, toute faction, tout groupe dissident, etc. auquel vous appartenez ou vous avez appartenu, auquel vous êtes ou avez été associé, ou que vous soutenez ou que vous avez soutenu. N'utilisez pas d'abréviations.

Je n'ai jamais appartenu ni été associé à aucune organisation; je n'en ai jamais soutenu ni appuyé aucune; et je n'ai jamais contribué ni participé à ses activités, que ce soit financièrement ou autrement.

- De (Mois Année)
- À (Mois Année)
- Nom de l'organisation
- Type d'organisation
- Village, ville, district, région, État/province et pays
- Titre(s), rôle(s) et/ou postes
- Activités / fonctions / responsabilités

Postes occupés au sein d'un gouvernement

4. En commençant par le plus récent, énumérez tous les postes que vous avez occupés au sein d'un gouvernement, qu'il s'agisse d'un poste d'employé de bureau, de fonctionnaire, de gardien de prison, de juge ou d'agent du renseignement, etc. N'utilisez pas d'abréviations.

Je n'ai jamais détenu de poste au sein d'un gouvernement.

- De (Mois Année)

- À (Mois Année)
- Ordre de gouvernement (p. ex. national, régional ou municipal)
- Ministère/direction
- Village, ville, district, région, État/province et pays
- Titre(s), rôle(s) et/ou postes
- Fonctions / responsabilités

5. Si l'un ou l'autre des postes gouvernementaux que vous avez occupés impliquait la collecte ou l'analyse de renseignements, indiquez lequel ou lesquels et détaillez vos activités dans cet espace

Service militaire, paramilitaire ou policier

6. Avez-vous déjà effectué un QUELCONQUE service militaire (p.ex. forces armées, milice, police militaire ou défense territoriale), paramilitaire ou policier? Oui/Non
 - Si **OUI**, remplissez le tableau suivant pour chaque service effectué sur une base volontaire ou obligatoire (p. ex. dans le cadre du service national obligatoire), dans les forces régulières ou les forces de réserve, à temps plein ou à temps partiel, dans n'importe quel pays.
7. Type de service (militaire, paramilitaire ou policier)
8. Nom de l'organisation
9. Nature de la participation : Volontaire/Obligatoire
10. Date de début du service (JJ-MM-AAAA) Date de fin du service (JJ-MM-AAAA)
11. Vos titres et rangs au début et à la fin de votre service
12. Prix, médailles et mentions élogieuses reçus (précisez la ou les dates)
13. Mesures disciplinaires prises contre vous (p. ex. amendes, sentence, emprisonnement, traduction devant une cour martiale ou exclusion pour cause d'indignité). Précisez la ou les dates.
14. Pays dans lequel ou lesquels le service a été réalisé
15. Décrivez vos rôles, vos tâches et vos responsabilités : (p. ex. gardien, agent des services frontaliers, policier, détective, fantassin, artilleur, membre de la police militaire, opérateur radio, membre des forces spéciales, agent du renseignement, interrogateur, etc.). Précisez les rangs/postes ainsi que les dates de promotion correspondantes. Indiquez tous les lieux où vous avez servi (base/ village/ ville/ région et pays), de même que : les dates; les services et les unités au sein desquels vous avez servi; le nombre de personnes sous votre supervision; les noms et les rangs de votre officier superviseur immédiat, le commandant de l'unité/du régiment, et le commandant du groupe opérationnel/corps :
16. Type de service (militaire, paramilitaire ou policier)
17. Nom de l'organisation

18. Nature de la participation : Volontaire/Obligatoire
19. Date de début du service (JJ-MM-AAAA) Date de fin du service (JJ-MM-AAAA)
20. Vos titres et rangs au début et à la fin de votre service
21. Prix, médailles et mentions élogieuses reçus (précisez la ou les dates)
22. Mesures disciplinaires prises contre vous (p. ex. amendes, sentence, emprisonnement, traduction devant une cour martiale ou exclusion pour cause d'indignité). Précisez la ou les dates.
23. Pays dans lequel ou lesquels le service a été réalisé
24. Décrivez vos rôles, vos tâches et vos responsabilités : (p. ex. gardien, agent des services frontaliers, policier, détective, fantassin, artilleur, membre de la police militaire, opérateur radio, membre des forces spéciales, agent du renseignement, interrogateur, etc.). Précisez les rangs/postes ainsi que les dates de promotion correspondantes. Indiquez tous les lieux où vous avez servi (base/ village/ ville/ région et pays), de même que : les dates; les services et les unités au sein desquels vous avez servi; le nombre de personnes sous votre supervision; les noms et les rangs de votre officier superviseur immédiat, le commandant de l'unité/du régiment, et le commandant du groupe opérationnel/corps
25. Si vous avez indiqué avoir effectué un service militaire, paramilitaire ou policier sur une base OBLIGATOIRE, veuillez en fournir les détails dans le tableau suivant.
- Nom de l'organisation
 - Est-ce qu'une durée de service minimale était exigée? Oui/Non
 - Si OUI, quelle était la durée de service minimale exigée?
 - Est-ce que la conscription à un âge déterminé était en vigueur? Oui/Non
 - Si OUI, quel était l'âge de la conscription?
 - Dans quelles circonstances votre service a-t-il pris fin (p. ex. service terminé, désertion, raisons médicales etc.)?
26. Avez-vous déjà suivi ou donné une formation militaire, paramilitaire ou policière, ou y avez-vous déjà pris part de quelque façon que ce soit, que vous vous soyez joint aux services en question ou non? Cette formation peut notamment prendre l'une des formes suivantes : formation sur la sécurité; formation en leadership; stratégie et planification stratégique; formation axée sur des compétences (p. ex. maniement des armes, équipement, techniques de campagne, entraînement physique, etc.); tactiques, techniques, et procédures associées à un rôle donné; soutien aux opérations (p. ex. logistique, administration, services alimentaires, soins médicaux, etc.); entraînement spécialisé (p. ex. contre-insurrection, commando, renseignement, combat à mains nues, tir d'élite, interrogation, opérations spéciales ou secrètes, etc.)? Oui/Non

- Si OUI, veuillez fournir de plus amples renseignements (p. ex. type de formation, durée, dates et lieux, contenu du cours, nom de l'organisation ayant donné le cours, etc.). Soyez précis :

27. Avez-vous participé, que ce soit directement ou indirectement, à un conflit, à un acte de violence, à un échange de tirs, etc., durant votre service militaire, paramilitaire ou policier, ou durant votre formation? Oui/Non

- Si OUI, veuillez fournir de plus amples renseignements (p. ex. type de formation, durée, dates et lieux, contenu du cours, nom de l'organisation ayant donné le cours, etc.). Soyez précis :

28. Avez-vous déjà été témoin de mauvais traitements infligés à des prisonniers ou à des civils, de prises d'otages ou d'actes de pillage ou de profanation d'artéfacts ou de bâtiments culturels ou religieux, ou avez-vous déjà participé vous-mêmes à de tels actes? Oui/Non

- Si OUI, fournissez des précisions :

Antécédents criminels

⚠ (Informez immédiatement l'Unité de la dispense ministérielle de tout changement touchant vos antécédents criminels, les accusations dont vous êtes l'objet ou votre casier judiciaire.)

29. Avez-vous déjà commis un crime ou une infraction ou été impliqué dans un crime ou une infraction, avez-vous déjà été arrêté, accusé, jugé ou reconnu coupable relativement à un crime ou à une infraction, ou avez-vous déjà fait l'objet d'un mandat d'arrêt ou de poursuites au criminel dans n'importe quel pays, y compris le Canada?

Oui/Non

- Si OUI, remplissez le tableau suivant et joignez au présent formulaire tout document à l'appui disponible (p. ex. acte d'accusation, casier judiciaire, confirmation de pardon ou de réhabilitation, etc.). Décrivez sous « Type et code de l'infraction » le type d'infraction et indiquez le numéro de l'article et le titre du texte de la législation criminelle ou civile (p. ex. « Conduire un véhicule avec les facultés affaiblies [conduite sous l'influence d'alcool ou de drogues], Code criminel canadien (C.cr.) 253(1)b »; « voies de fait causant des lésions corporelles », C.cr. 267b »; « Recel, Code des États-Unis, titre 18, § 2315 », etc.). Énumérez la totalité des infractions et des crimes, même dans les cas où vous n'avez fait l'objet d'aucune accusation.

30. Type et code du crime ou de l'infraction (le cas échéant)

31. Date des infractions ou des crimes allégués (JJ-MM-AAAA)

32. Date à laquelle les accusations ont été portées (JJ-MM-AAAA)
33. Ville et pays où l'infraction a été commise ou où les accusations ont été portées
34. Date du jugement (JJ-MM-AAAA)
35. Détails du jugement (indiquez le résultat des accusations [p. ex. retrait, rejet, acquittement, condamnation, condamnation avec sursis ou suspension de peine, plaidoyer de culpabilité, absolution inconditionnelle ou sous condition, engagement de ne pas troubler l'ordre public, ordonnance de probation, etc.] et précisez le tribunal ayant rendu le jugement). Si vous avez été reconnu coupable, indiquez clairement pour quel crime ou quelle infraction :
36. Avez-vous été reconnu coupable? Oui/Non
 - Si **OUI**, quelle peine vous a été infligée?
37. Dates de début et de fin de la peine
 - Du Mois Année
 - À Mois Année
38. Établissement et emplacement (ville et pays) où la peine a été purgée
39. Avez-vous purgé votre peine au complet? Oui/Non
 - Si **NON**, veuillez en indiquer les raisons (p. ex. la peine a été réduite en raison du temps passé en détention avant le procès, on vous a accordé la libération conditionnelle [vous avez été libéré de façon anticipée tout en demeurant assujetti à une surveillance, à des restrictions et à des conditions], vous avez été libéré pour des motifs humanitaires, vous avez purgé simultanément deux peines ou plus, etc.) :
40. Avez-vous profité d'une suspension de casier judiciaire (pardon), votre casier judiciaire a-t-il été expurgé ou êtes-vous considéré comme réhabilité? Oui/Non
 - Si **OUI**, fournissez de plus amples renseignements (indiquez la date du pardon et l'organisme qui l'a accordé) et joignez au présent formulaire tout document à l'appui disponible.
41. Type et code du crime ou de l'infraction (le cas échéant)
42. Date des infractions ou des crimes allégués (JJ-MM-AAAA)
43. Date à laquelle les accusations ont été portées (JJ-MM-AAAA)
44. Ville et pays où l'infraction a été commise ou où les accusations ont été portées
45. Date du jugement (JJ-MM-AAAA)
46. Détails du jugement (indiquez le résultat des accusations [p. ex. retrait, rejet, acquittement, condamnation, condamnation avec sursis ou suspension de peine, plaidoyer de culpabilité, absolution inconditionnelle ou sous condition, engagement de ne pas troubler l'ordre public, ordonnance de probation, etc.] et précisez le tribunal ayant rendu le jugement). Si vous avez été reconnu coupable, indiquez clairement pour quel crime ou quelle infraction :
47. Avez-vous été reconnu coupable? Oui/Non

- Si OUI, quelle peine vous a été infligée?

48. Dates de début et de fin de la peine

- Du Mois Année
- Au Mois Année

49. Établissement et emplacement (ville et pays) où la peine a été purgée

50. Avez-vous purgé votre peine au complet? Oui/Non

- Si NON, veuillez en indiquer les raisons (p. ex. la peine a été réduite en raison du temps passé en détention avant le procès, on vous a accordé la libération conditionnelle [vous avez été libéré de façon anticipée tout en demeurant assujetti à une surveillance, à des restrictions et à des conditions], vous avez été libéré pour des motifs humanitaires, vous avez purgé simultanément deux peines ou plus, etc.) :

51. Avez-vous profité d'une suspension de casier judiciaire (pardon), votre casier judiciaire a-t-il été expurgé ou êtes-vous considéré comme réhabilité? Oui/Non

- Si OUI, fournissez de plus amples renseignements (indiquez la date du pardon et l'organisme qui l'a accordé) et joignez au présent formulaire tout document à l'appui disponible.

Précédents pays de résidence ou de voyage international

52. En commençant par le plus récent, énumérez tous les lieux où vous avez résidé ou auxquels vous avez effectué une visite ou un voyage international depuis l'âge de 16 ans. **N'OMETTEZ PAS DE PÉRIODE SANS FOURNIR D'EXPLICATION.** Sous « Statut dans le pays », sélectionnez l'une des options suivantes : citoyen; résident permanent; visiteur; travailleur; étudiant; personne protégée; demandeur d'asile; ressortissant étranger; ou autre (dans ce cas, veuillez expliquer votre réponse). Sous « But du voyage », indiquez les motifs du voyage (p. ex. affaires, études, loisirs, tentative d'immigration, demande d'asile, etc.).

- De (JJ-MM-AAAA)
- Au (JJ-MM-AAAA)
- Ville et pays
- Statut dans le pays
- But du voyage

53. Si aucun des voyages mentionnés ci-haut ont été liés, payés ou entrepris pour un ou plusieurs des groupes, organisations, militaires, paramilitaires ou gouvernements, y compris ceux relatifs à votre interdiction de territoire, indiquez la/les lettre(s) de la ligne qui s'applique(nt) et fournissez de plus amples informations détaillées (p. ex. précisez la nature et le but du voyage, vos activités, comment et pourquoi le voyage a été subventionné et/ou effectué pour le compte de l'entité en question, etc.) :

Section D - Désignation d'un représentant

Vous n'êtes pas tenu de retenir les services d'un représentant en immigration; le choix vous revient. Personne ne peut vous garantir que le ministre de la Sécurité publique et de la Protection civile fera une déclaration de dispense dans votre dossier.

Un représentant est une personne qui vous a fourni des conseils ou des directives avant de soumettre votre demande, après la présentation de celle-ci ou une personne qui a votre permission d'agir en votre nom auprès de l'ASFC.

VOUS NE POUVEZ AVOIR QU'UN SEUL REPRÉSENTANT À LA FOIS PAR DEMANDE.

Au titre de la Loi sur l'immigration et la protection des réfugiés, commet une infraction toute personne non autorisée en vertu de la Loi qui, sciemment, de façon directe ou indirecte, représente ou conseille une personne, moyennant rétribution, relativement à une demande ou à une instance prévue par la présente loi, ou offre de le faire. La rétribution peut être pécuniaire ou représenter toute autre forme de rémunération ou de récompense.

Faites-vous appel à un représentant dans le cadre de votre demande de déclaration de dispense?? Oui/Non

Si **OUI**, vous devez remplir le formulaire Recours aux services d'un représentant (IMM 5476), qui est accessible gratuitement dans le site Web www.cic.gc.ca. Joignez ce formulaire dûment rempli à votre demande de déclaration de dispense.

⚠ Vous devez communiquer immédiatement à l'Unité de la dispense ministérielle tout changement quant à la personne qui vous représente, y compris une cessation de service ou un changement d'adresse, en soumettant un nouveau formulaire IMM 5476 dûment rempli et signé.

Section E - Déclaration du demandeur

- Si vous N'AVEZ PAS reçu l'aide d'un interprète pour remplir le présent formulaire, vous devez remplir la **DÉCLARATION A**.
- Si vous AVEZ reçu l'aide d'un interprète pour remplir le présent formulaire, vous devez remplir la **DÉCLARATION B**. Avant de signer la **DÉCLARATION B**, assurez-vous que toutes les questions, les réponses et les instructions présentées dans ce formulaire, y compris celle-ci, ont été interprétées pour vous.
- **Déclaration A:** Je sais lire le français et je suis en mesure de bien lire et de bien comprendre le contenu du présent formulaire et tous les documents qui y sont joints.

J'ai fourni des renseignements pertinents et des réponses complètes et exactes à toutes les questions du présent formulaire de demande, y compris, le cas échéant, dans les pages ou les documents joints à celui-ci. Je comprends que le fait de fournir des renseignements faux ou trompeurs constitue une infraction grave qui pourrait avoir une conséquence négative sur ma demande, et m'exposer à des poursuites.

- Signature du demandeur
- Date (JJ-MM-AAAA)
- Un parent ou un tuteur légal doit signer au nom de tout demandeur âgé de moins de 18 ans :
 - Nom complet du parent ou du tuteur légal (en caractères d'imprimerie)
 - Relation avec le demandeur
 - Signature du parent ou du tuteur légal
 - Date (JJ-MM-AAAA)
- **Déclaration B:** La totalité du contenu du présent formulaire et de tous les documents qui y sont joints m'a été interprété, et je confirme avoir bien compris l'intégralité de ce contenu. J'ai fourni des renseignements pertinents et des réponses complètes et exactes à toutes les questions du présent formulaire de demande, y compris, le cas échéant, dans les pages ou les documents joints à celui-ci. Je comprends que le fait de fournir des renseignements faux ou trompeurs constitue une infraction grave qui pourrait avoir une conséquence négative sur ma demande, et m'exposer à des poursuites.
 - Signature du demandeur
 - Date (JJ-MM-AAAA)
 - Un parent ou un tuteur légal doit signer au nom de tout demandeur âgé de moins de 18 ans :
 - Nom complet du parent ou du tuteur légal (en caractères d'imprimerie)
 - Relation avec le demandeur
 - Signature du parent ou du tuteur légal
 - Date (JJ-MM-AAAA)

Section F - Déclaration de l'interprète

Je, (écrivez clairement votre nom au complet en caractères d'imprimerie), atteste que j'ai interprété fidèlement le contenu intégral du présent formulaire et tous les documents joints pour le demandeur du français à/au (indiquez le dialecte, le cas échéant).

Je maîtrise ces deux langues (et ce dialecte, le cas échéant) et j'ai pu communiquer efficacement avec le demandeur. Le demandeur m'a assuré avoir bien compris le contenu intégral du présent formulaire et tous les documents joints et les réponses fournies, tels que je les ai interprétés.

- Signature de l'interprète
- Date (JJ-MM-AAAA)

Section G - Déclaration sur la protection des renseignements personnels

Les renseignements que vous fournissez dans le présent document sont recueillis en vertu de la Loi sur l'immigration et la protection des réfugiés (LIPR) et du Règlement sur l'immigration et la protection des réfugiés (RIPR) aux fins du traitement de votre demande de déclaration de dispense visée au paragraphe 42.1(1) de la LIPR. Ces renseignements pourraient être divulgués à Immigration, Réfugiés et Citoyenneté Canada; à la Commission de l'immigration et du statut de réfugié; au Service canadien du renseignement de sécurité; à la Gendarmerie royale du Canada; au National Criminal Information Center des États-Unis; à INTERPOL; et à des organisations semblables en vue d'obtenir de l'information susceptible d'aider l'Agence des services frontaliers du Canada (ASFC) à formuler une recommandation au ministre de la Sécurité publique et de la Protection civile quant à l'opportunité de faire une déclaration de dispense.

Tout refus de fournir les renseignements demandés pourrait entraîner des retards dans le traitement de votre demande, voire le refus d'entreprendre son traitement. En vertu de la Loi sur la protection des renseignements personnels, toute personne a le droit d'accéder à ses renseignements personnels ou d'y apporter des corrections. Les renseignements recueillis sont décrits dans Info Source, sous le Fichier de renseignements personnels - ASFC PPU 1504, qui est présenté dans le chapitre sur l'ASFC d'Info Source. Si vous avez des préoccupations quant à la façon dont l'ASFC gère vos renseignements personnels, vous avez le droit de déposer une plainte auprès du Commissariat à la protection de la vie privée du Canada.

Section H - Renseignements généraux

En vertu du paragraphe 42.1(1) de la Loi sur l'immigration et la protection des réfugiés (LIPR) et du règlement connexe, vous pouvez demander une déclaration de dispense (aussi appelée « dispense ministérielle ») si vous avez été jugé interdit de territoire au Canada au titre du paragraphe 34(1) [sécurité], des alinéas 35(1)b) ou 35(1)c) [atteinte

aux droits humains ou internationaux] ou au paragraphe 37(1) [activités de criminalité organisée] de la LIPR, ce qui entraîne l'adoption d'une mesure de renvoi ou le rejet de votre demande de résidence temporaire ou permanente. Vous pouvez également présenter une demande si vous avez été jugé interdit de territoire au Canada au titre d'une disposition correspondante du paragraphe 19(1) de l'ancienne Loi sur l'immigration (LI). Les ressortissants étrangers qui sont interdits de territoire au titre de l'alinéa 35(1)a) de la LIPR ou de l'alinéa 19(1)i) de l'ancienne LI (perpétration d'actes de génocide, de crimes de guerre ou de crimes contre l'humanité) ne sont pas admissibles à une déclaration de dispense. Aucune demande de déclaration de dispense ne peut être présentée avant que les recours en matière de révision judiciaire du rejet de la demande de résidence temporaire ou permanente ou de la mesure de renvoi n'aient été épuisés. **Toute demande qui ne satisfait pas à ces exigences ou qui ne contient pas tous les renseignements obligatoires sera retournée sans avoir été traitée.**

Le ministre de la Sécurité publique et de la Protection civile (le ministre) peut déclarer que les questions visées par les dispositions susmentionnées de la LIPR ne constituent pas un motif d'interdiction de territoire dans votre cas si vous lui démontrez que celles-ci ne sont pas contraires à l'intérêt national. Pour décider s'il fait la déclaration de dispense, le ministre ne doit tenir compte que de considérations relatives à la sécurité nationale et à la sécurité publique; toutefois, il ne limite pas son analyse au fait que l'étranger constitue ou non un danger pour le public ou la sécurité du Canada. Il incombe au ressortissant étranger qui demande une déclaration de dispense de convaincre le ministre qu'une éventuelle déclaration de dispense n'irait pas à l'encontre de l'intérêt national. Ni l'ASFC ni le ministre ne sont tenus de démontrer le contraire.

La présente demande vise à présenter au ministre un ensemble de renseignements précis se rapportant aux circonstances de votre dossier, en plus de tout autre document supplémentaire que vous souhaitez lui soumettre. Ces renseignements peuvent aider le ministre à déterminer s'il vous accorde ou non une dispense de votre interdiction de territoire.

Cette demande est mise gratuitement à la disposition des demandeurs par l'Agence des services frontaliers du Canada (ASFC). Vous pouvez l'obtenir sans frais dans le site Web de l'ASFC à l'adresse www.asfc.gc.ca.

Répondre aux questions

Les renseignements que vous fournissez dans votre demande de déclaration de dispense et dans les documents qui y sont joints doivent être complets, véridiques et exacts. Sinon, votre demande pourrait ne pas être traitée. Assurez-vous de comprendre les instructions et les questions avant d'écrire vos réponses. Si vous ne comprenez pas une question, demandez que quelqu'un vous l'explique.

Donnez des renseignements détaillés, le cas échéant, et indiquez les dates ainsi que les noms de lieux et de personnes. **VOUS DEVEZ FOURNIR UNE RÉPONSE COMPLÈTE À TOUTES LES QUESTIONS. SI VOUS AVEZ BESOIN DE PLUS D'ESPACE, UTILISEZ DES FEUILLES SUPPLÉMENTAIRES.** Sur chaque feuille supplémentaire, écrivez votre nom et votre numéro d'identification canadien aux fins de l'immigration dans le coin supérieur droit, apposez vos initiales à côté de votre nom et inscrivez le numéro de la page dans le coin inférieur droit. En outre, indiquez la section et le numéro de la question pour lesquelles vous fournissez des renseignements supplémentaires.

Signez la déclaration du demandeur à la fin du formulaire lorsque vous avez fini de le remplir (voir la section E - Déclaration du demandeur : déclaration A). Veuillez noter qu'un parent ou un tuteur légal doit signer au nom de tout demandeur âgé de moins de 18 ans.

Langue

Vous pouvez obtenir et remplir une demande de déclaration de dispense dans l'une ou l'autre des deux langues officielles du Canada : le français et l'anglais. Si vous ne comprenez ni le français ni l'anglais, vous devrez utiliser les services d'un interprète. Vérifiez que l'interprète vous lit bien toutes les instructions et questions contenues dans le formulaire, que vous les comprenez bien, et qu'il comprend vos réponses. **VOUS ÊTES RESPONSABLE DES RENSEIGNEMENTS CONSIGNÉS DANS CETTE DEMANDE ET DANS TOUT DOCUMENT JOINT OU SUPPLÉMENTAIRE QUE VOUS DÉCIDEZ DE PRÉSENTER.** L'interprète et vous devez signer le formulaire lorsque vous avez fini (voir la section E - Déclaration du demandeur : déclaration B; et la section F - Déclaration de l'interprète).

Présentation d'une demande de déclaration de dispense

Veuillez transmettre votre Demande de déclaration de dispense visée au paragraphe 42.1 (1) de la Loi sur l'immigration et la protection des réfugiés (LIPR), dûment remplie et signée, ainsi que tout document connexe, à l'Unité de la dispense ministérielle (UDM) de l'ASFC, par la poste, à l'adresse suivante :

Unité de la dispense ministérielle
Agence des services frontaliers du Canada
100, rue Metcalfe, 10e étage
Ottawa (Ontario) Canada K1A 0L8

ou par courriel, à l'adresse suivante :

Ministerial_Relief.Exemptions_Ministerielles@cbsa-asfc.gc.ca.

Si vos renseignements changent ou si vous souhaitez en ajouter, vous devez en informer l'UDM de l'ASFC. Encerclez ou soulignez les renseignements que vous avez changés ou ajoutés dans votre demande de déclaration de dispense, signez et datez les pages comportant des changements et envoyez celles-ci (l'original et non une copie de celles-ci) à l'UDM de l'ASFC, à l'adresse susmentionnée.

Pour en savoir davantage, veuillez consulter le [Guide de demande de déclaration de dispense visée au paragraphe 42.1\(1\) de la Loi sur l'immigration et la protection des réfugiés](#).

Date de modification :

2017-05-02

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**Application for a Declaration of Relief under Subsection 42.1(1) of the Immigration and Refugee Protection Act (IRPA)**

Note: Print or type the details of your application in the spaces provided below. **YOU MUST RESPOND FULLY TO ALL QUESTIONS. IF YOU NEED MORE SPACE, USE ADDITIONAL SHEETS OF PAPER.** On each additional sheet, print your name and Canadian immigration identification number in the top right-hand corner, sign your initials below your name, and write the page number in the bottom right-hand corner. Also, identify the section and question number for each answer for which you are providing additional information. This application form is produced by the Canada Border Services Agency and is available free of charge at www.cbsa.gc.ca.

Section A – Applicant Information**Personal Information**

1 Canadian immigration ID number (e.g., UCI or other immigration identifier)

2 Surname(s)/Family name(s) Given name(s)

3 Other name(s) - List below any other names you have used, if applicable

Nickname(s): _____

Maiden name: _____

Alias(es): _____

Other(s) (please explain, e.g., legal change of name): _____

4 Date of birth

Day Month Year

5 Gender

Male Female Other: _____

6 Town/city and country of birth

7 Citizenship/Nationality (country)

How citizenship/nationality was acquired (e.g., by birth, marriage, etc.)

Date citizenship/nationality was acquired

Present status

Day Month Year

Day Month Year

8 Language(s) spoken (include dialects)

9 Official language for correspondence - Select the official language that you would like the CBSA to use with you in correspondence, and in processing your application (including the drafting of a recommendation for Ministerial decision)

English French

10 Current marital status

Single

Common-Law

Married

Legally Separated

Annulled Marriage

Divorced

Widowed

Unknown

11 If you are married or in a common-law relationship, provide the date on which you were married or entered into the common-law relationship

Day Month Year

Provide the name and date of birth of your current spouse/common-law partner

12 Surname(s)/Family name(s)

Given name(s)

13 Date of birth

Day Month Year

14 Have you previously been married or in a common-law relationship?

Yes No

If YES, provide the following details for your previous spouse(s)/common-law partner(s)

15 Surname(s)/Family name(s)

Given name(s)

16 Date of birth

Day Month Year

17 Type of relationship (e.g., married or common-law)

18 In a relationship from

Day Month Year

To

Day Month Year

19 Current status of relationship (e.g., legally separated, annulled marriage, divorced, or widowed)

Current Contact Information

(YOU MUST IMMEDIATELY NOTIFY THE MINISTERIAL RELIEF UNIT OF ANY CHANGE IN THIS ADDRESS TO AVOID YOUR APPLICATION BEING CLOSED)

20 Street No.	Street Name		
P.O. Box	Apt./Unit	City/Town	
District		Province/State	Postal Code/Zip Code
Country		Telephone No.	<input type="checkbox"/> Residence <input type="checkbox"/> Cellular <input type="checkbox"/> Business
Secondary Telephone No. <input type="checkbox"/> Residence <input type="checkbox"/> Cellular <input type="checkbox"/> Business		E-mail Address	

Mailing Address (if different from above)

(YOU MUST IMMEDIATELY NOTIFY THE MINISTERIAL RELIEF UNIT OF ANY CHANGE IN THIS ADDRESS TO AVOID YOUR APPLICATION BEING CLOSED)

21 Street No.	Street Name		
P.O. Box	Apt./Unit	City/Town	
District		Province/State	Postal Code/Zip Code
Country			

Section B – Inadmissibility**Inadmissibility(ies) against which you are seeking a Declaration of Relief**

- 1 Check all boxes that apply and fill in data as appropriate. Under "Inadmissibility grounds", provide specific details, for example: membership in an organization (indicate whether the group was involved with organized criminality, terrorism, espionage, subversion, etc.); being a senior official in a designated regime; engagement in and/or instigation of an act or acts (indicate whether you were engaged in terrorism, espionage, subversion, violence, organized criminality and/or transnational crime (e.g., people smuggling, trafficking in persons, and/or money laundering, etc.)); being a danger to the security of Canada; and/or being a person whose entry into or stay in Canada is restricted pursuant to a relevant decision/resolution/measure (also known as a sanction) of an international organization of states or association of states, of which Canada is a member. Where applicable, make sure to name the organization(s), identify the designated regime(s), and/or specify the type of act(s) you committed that resulted in your inadmissibility.

IRPA subsection	IRPA paragraph	Inadmissibility grounds	Date found inadmissible	City and country where found inadmissible
34(1) <input type="checkbox"/>	(a) <input type="checkbox"/>		Day Month Year 	
	(b) <input type="checkbox"/>		Day Month Year 	
	(b.1) <input type="checkbox"/>		Day Month Year 	
	(c) <input type="checkbox"/>		Day Month Year 	
	(d) <input type="checkbox"/>		Day Month Year 	
	(e) <input type="checkbox"/>		Day Month Year 	
35(1) <input type="checkbox"/>	(f) <input type="checkbox"/>		Day Month Year 	
	(b) <input type="checkbox"/>		Day Month Year 	
	(c) <input type="checkbox"/>		Day Month Year 	
37(1) <input type="checkbox"/>	(a) <input type="checkbox"/>		Day Month Year 	
	(b) <input type="checkbox"/>		Day Month Year 	
I was found to be inadmissible under subsection 19(1) of the former <i>Immigration Act</i> (IA) on security, human or international rights violations, and/or organized criminality grounds <input type="checkbox"/>	Specify provision(s):		Day Month Year 	

Circumstances of Inadmissibility		
Check all boxes below that apply to the circumstances in which you were found inadmissible under the above-noted provisions. If available, attach a copy of the removal order, or inadmissibility or refusal decision.		
<input type="checkbox"/> 2	I was found inadmissible to Canada by the Immigration and Refugee Board and a removal order was issued	<input type="checkbox"/>
<input type="checkbox"/> 3	I was refused Canadian temporary residence because there are reasonable grounds to believe I am inadmissible	<input type="checkbox"/>
<input type="checkbox"/> 4	I was refused Canadian permanent residence because there are reasonable grounds to believe I am inadmissible	<input type="checkbox"/>
<input type="checkbox"/> 5	Is your inadmissibility currently under litigation or do you intend to litigate your inadmissibility?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Other Inadmissibility(ies)		
<input type="checkbox"/> 6	Have you been reported to be or found to be inadmissible to Canada under any other section of the IRPA / the former IA than those listed above?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>Note: Inadmissibilities not related to security, human or international rights violations, and/or organized criminality grounds cannot be remedied by a declaration of relief under subsection 42.1(1) of the IRPA; however, this information may be considered in the context of the Minister's assessment of national interest factors.</p>		
<p>If YES, provide details of the inadmissibility, including the specific inadmissibility grounds, the date on which you were reported or found to be inadmissible, and the city and country where the report was written/inadmissibility decision was made. Identify the Immigration, Refugees and Citizenship Canada (IRCC), Immigration and Refugee Board (IRB), Canada Border Services Agency (CBSA) or Canadian visa office where the report was written/decision was rendered. Attach a copy of the report, removal order or inadmissibility decision, if available.</p>		
Additional Information		
Respond to the following questions by checking all boxes that apply:		
<input type="checkbox"/> 7	Have you ever been refused refugee status in, or an immigrant or visitor visa to, Canada or any other country?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> 8	Have you ever been refused admission to, or ordered to leave, Canada or any other country?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> 9	Have you ever been sought, arrested, detained or put in jail under any circumstances? (This question is not limited to criminal activity)	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> 10	Have you ever used, planned or advocated the use of armed struggle or violence to reach political, religious or social objectives?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> 11	If you were found inadmissible for involvement in a group, organization, military, paramilitary, or designated government or regime, was your involvement voluntary?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<input type="checkbox"/> 12(a)	If you were associated with a military, paramilitary, designated government or regime, were you aware of its involvement in armed hostilities?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<input type="checkbox"/> 12(b)	If you were associated with a military, paramilitary, designated government or regime, did you participate in or provide support for its involvement in armed hostilities?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<input type="checkbox"/> 13(a)	Have you ever been associated with a group or organization that used, uses, or advocates the use of armed struggle or violence to reach political, religious or social objectives?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> 13(b)	If YES, were you aware, during your association, of the group's or organization's involvement in violent activities?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<input type="checkbox"/> 14(a)	Have you ever engaged in an act of espionage, subversion, terrorism, organized crime and/or transnational crime (e.g., human smuggling, human trafficking, money laundering, etc.)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> 14(b)	If YES, was your involvement voluntary?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<input type="checkbox"/> 15	Have you ever advocated or been involved in an act of genocide or in the commission of a war crime or crime against humanity, such as: willful killing; torture; attacks; deportation; enslavement; starvation; unlawful destruction of property or other inhumane acts against civilians or prisoners of war; whether in peace or war?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> 16	Are you a person whose entry into or stay in Canada is restricted pursuant to a relevant decision/resolution/measure (also known as a sanction) of an international organization of states or association of states, of which Canada is a member?	<input type="checkbox"/> Yes <input type="checkbox"/> No

If the answer to any of the above questions is YES, provide details here (indicate the question number), and include with your application form any available supporting documentation.

Section C – Background Information

Formal Education and Training

- 1 Starting with the most recent, list all formal education and training. Include all elementary and secondary schools, and post-secondary, technical and vocational institutions attended, regardless of whether you completed the program or obtained a diploma, degree or certificate.

From	To	Name of institution and field of study	Town, city, district, region, state/province, country	Level, degree, diploma or certificate obtained
Month Year	Month Year			
Month Year	Month Year			
Month Year	Month Year			
Month Year	Month Year			

Employment and Volunteer Work

- 2 Starting with the most recent, list all employment, including full-time, part-time, temporary and self-employment, and volunteer work from the age of 16 to present. DO NOT LEAVE ANY GAPS IN TIME. If you were not working, provide information on what you were doing (e.g., unemployed, studying, travelling, retired, volunteering, in detention, etc.).

From	To	Occupation/Job Title	Employer/company/organization name	Town, city, district, region, state/province, country
Month Year	Month Year			

Duties/Responsibilities

From	To	Occupation/Job Title	Employer/company/organization name	Town, city, district, region, state/province, country
Month Year	Month Year			

Duties/Responsibilities

From Month Year	To Month Year	Occupation/Job Title	Employer/company/ organization name	Town, city, district, region, state/province, country
Duties/Responsibilities				
From Month Year	To Month Year	Occupation/Job Title	Employer/company/ organization name	Town, city, district, region, state/province, country
Duties/Responsibilities				
Membership in and Association with Organization(s)				
3 Starting with the most recent, list all organizations in which you have participated, or of which you were (or still are) a member, with which you were (or still are) associated, and/or which you supported (or are still supporting). Under "Type of organization", identify the type of group (e.g., political, social, youth, student, etc.) or vocational organization (e.g., trade union, professional associations, etc.). Make sure to list any applicable wings, factions, splinter groups, etc., to which you belong(ed), with which you associate(d) or which you support(ed). Do not use abbreviations.				
I have never belonged to, participated in, associated with, contributed to, assisted or supported any organization, financially or otherwise. <input type="checkbox"/>				
From Month Year	To Month Year	Name of organization	Type of organization	Town, city, district, region, state/province, country
Title(s), role(s) and/or position(s) held		Activities/Duties/Responsibilities		
From Month Year	To Month Year	Name of organization	Type of organization	Town, city, district, region, state/province, country
Title(s), role(s) and/or position(s) held		Activities/Duties/Responsibilities		

From	To	Name of organization	Type of organization	Town, city, district, region, state/province, country
Month Year	Month Year			
Title(s), role(s) and/or position(s) held		Activities/Duties/Responsibilities		
From	To	Name of organization	Type of organization	Town, city, district, region, state/province, country
Month Year	Month Year			
Title(s), role(s) and/or position(s) held		Activities/Duties/Responsibilities		
Government Position(s) Held				
4 Starting with the most recent, list all government position(s) held, such as office worker, civil servant, jail guard, judge, intelligence officer, etc. Do not use abbreviations.				
I have never held a government position. <input type="checkbox"/>				
From	To	Level of jurisdiction (e.g., national, regional, municipal)	Department/Branch	Town, city, district, region, state/province, country
Month Year	Month Year			
Title(s), role(s) and/or position(s) held		Duties/Responsibilities		
From	To	Level of jurisdiction (e.g., national, regional, municipal)	Department/Branch	Town, city, district, region, state/province, country
Month Year	Month Year			
Title(s), role(s) and/or position(s) held		Duties/Responsibilities		

From	To	Level of jurisdiction (e.g., national, regional, municipal)	Department/Branch	Town, city, district, region, state/province, country						
Month Year	Month Year									
Title(s), role(s) and/or position(s) held		Duties/Responsibilities								
<p>5 If any of the government positions you held involved intelligence gathering and/or analysis, indicate which position(s), and provide details of your activities here:</p>										
<p>Military, Paramilitary and/or Police Service</p> <p>6 Have you performed ANY type of military (e.g., armed forces, militia, military police, territorial defense, etc.), paramilitary or police service? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If YES, complete the following table for all service, whether voluntary or mandatory (required to serve, e.g. obligatory national service), regular or reserve, full- or part-time, in any country.</p>										
<p>7 Type of service: military (be specific), paramilitary or police</p>		<p>8 Name of organization</p>								
<p>9 Nature of participation</p>		<input type="checkbox"/> Voluntary <input type="checkbox"/> Mandatory								
<p>10 Served from</p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td style="text-align: center;">Day</td> <td style="text-align: center;">Month</td> <td style="text-align: center;">Year</td> </tr> </table>		Day	Month	Year	<p>Served to</p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td style="text-align: center;">Day</td> <td style="text-align: center;">Month</td> <td style="text-align: center;">Year</td> </tr> </table>			Day	Month	Year
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<p>11 Your title(s) and rank(s) at the start and conclusion of your service</p>										
<p>12 Awards, medals and commendations received (include date(s))</p>										
<p>13 Disciplinary measures against you (e.g., fines, sentence, jail, court martial, dishonourable discharge, etc.). Include date(s).</p>										
<p>14 Country(ies) in which service was performed</p>										

15 Describe your role(s), duty(ies) and responsibility(ies) (e.g., guard, border officer, police constable, detective, infantryperson, artillery, military police, radio operator, special forces, intelligence officer, interrogation, etc.). Identify all ranks/positions and corresponding dates of promotion. List all locations of service (bases/ town/ cities/ areas and country), and the associated: dates; branches and units in which you served; the number of people you supervised; the name(s) and rank(s) of your immediate supervising officer, your unit/regimental commander, and the operational group/corps commander:							
16 Type of service: military (be specific), paramilitary or police							
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18 Nature of participation							
<input type="checkbox"/> Voluntary <input type="checkbox"/> Mandatory							
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22 Disciplinary measures against you (e.g., fines, sentence, jail, court martial, dishonourable discharge, etc.). Include date(s).							
23 Country(ies) in which service was performed							
24 Describe your role(s), duty(ies) and responsibility(ies) (e.g., guard, border officer, police constable, detective, infantryperson, artillery, military police, radio operator, special forces, intelligence officer, interrogation, etc.). Identify all ranks/positions and corresponding dates of promotion. List all locations of service (bases/ town/ cities/ areas and country), and the associated: dates; branches and units in which you served; the number of people you supervised; the name(s) and rank(s) of your immediate supervising officer, your unit/regimental commander, and the operational group/corps commander:							

25 If MANDATORY was selected for any of the military, paramilitary, or police services you completed, provide details in the following table.					
Name of organization	Was there a minimum length of service required?	If YES, what was the minimum length of service required?	Was there a draft age (age when required to join)?	If YES, what was the draft age?	Under what circumstances did your service end (e.g., completed service, deserted, medical reasons, etc.)?
	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No		
	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No		
	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No		
	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No		
26 Have you ever participated in, provided, or received any form of military, paramilitary or police training, whether or not you actually joined those services? This includes, but is not limited to: security training; leadership training; strategy and strategic planning; skills training (e.g., weapons, equipment, field craft, fitness, etc.); tactics, techniques, and procedures associated with a given role; support to operations (e.g., logistics, administration, food services, medical, etc.); specialized training (e.g., counter-insurgency, commando, intelligence, unarmed combat, interrogation, sniper, special or covert operations, etc.)? <input type="checkbox"/> Yes <input type="checkbox"/> No					
If YES, provide details (e.g., type, length, dates and locations of training, course content, name of instructing organization, etc.). Be specific:					
27 Did you participate, directly or indirectly, in any conflict(s), violence, exchange(s) of weapon fire, etc., during any of your military, paramilitary, or police service, or during your training? <input type="checkbox"/> Yes <input type="checkbox"/> No					
If YES, provide details of the incident(s) and the circumstances. Be specific:					
28 Have you ever witnessed or participated in ill treatment of prisoners or civilians, hostage-taking, looting, or desecration of cultural or religious artifacts or buildings? <input type="checkbox"/> Yes <input type="checkbox"/> No					
If YES, provide details. Be specific:					
Criminal History <small>(IMMEDIATELY NOTIFY THE MINISTERIAL RELIEF UNIT OF ANY CHANGE IN CRIMINAL ACTIVITY, CHARGES, AND/OR YOUR CRIMINAL RECORD)</small>					
29 Have you ever committed/been party to or been arrested for, charged with, on trial for, or convicted of a crime or offence, or subject to any arrest warrants or criminal proceedings, in any country, including Canada? <input type="checkbox"/> Yes <input type="checkbox"/> No					
<p>If YES, complete the following table, and attach any supporting records (e.g., charge sheet, criminal record, pardon or rehabilitation confirmation, etc.) if available. For "Offence type and code", describe the type of offence and list the applicable section number(s) and title(s) of the associated criminal/civil legislation(s) (e.g., "operating a vehicle while impaired (driving under the influence of alcohol or drugs /DUI), Canadian Criminal Code (CC) 253(1)(b)"; "assault causing bodily harm, CC 267(b)"; "receipt of stolen goods, 18 U.S. Code § 2315", etc.). List all offences and crimes, including those for which you were not charged.</p>					
30 Crime/offence type and code (if applicable)					

<p>31 Date of alleged crime(s) or offence(s)</p> <p style="text-align: center;">Day Month Year</p>	<p>32 Date charge(s) laid</p> <p style="text-align: center;">Day Month Year</p>						
<p>33 City and country where offence occurred/charges laid</p>	<p>34 Date of disposition</p> <p style="text-align: center;">Day Month Year</p>						
<p>35 Details of disposition (identify the outcome of the charges (e.g., withdrawn, dismissed, acquittal, conviction, suspended or deferred sentence, guilty plea, absolute or conditional discharge, peace bond, probation order, etc.), and indicate which court rendered the disposition). If you were convicted, clearly identify your conviction:</p>							
<p>36 Were you sentenced?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>							
<p>If YES, what was the sentence imposed?</p>							
<p>37 Date sentence served</p>	<table border="1" style="width: 100%;"> <tr> <th style="text-align: center;">From</th> <th style="text-align: center;">To</th> </tr> <tr> <td style="text-align: center;">Month</td> <td style="text-align: center;">Year</td> </tr> <tr> <td style="text-align: center;">Month</td> <td style="text-align: center;">Year</td> </tr> </table>	From	To	Month	Year	Month	Year
From	To						
Month	Year						
Month	Year						
<p>38 Institution and location (city and country) where sentence was served</p>							
<p>39 Did you complete serving your full sentence?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>							
<p>If NO, provide reason(s)/explanation (e.g., received credit for pre-trial time in custody, granted parole (released early but subject to supervision, restrictions and conditions), granted compassionate release, served two or more sentences simultaneously, etc.):</p>							
<p>40 Have you received a record suspension (pardon), had your record expunged or been deemed to be rehabilitated?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>							
<p>If YES, provide details (include date(s) and pardoning/granting body(ies)), and attach supporting records if available.</p>							
<p>41 Crime/offence type and code (if applicable)</p>							
<p>42 Date of alleged crime(s) or offence(s)</p> <p style="text-align: center;">Day Month Year</p>	<p>43 Date charge(s) laid</p> <p style="text-align: center;">Day Month Year</p>						
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Countries of Previous Residence or International Travel																																														
52 Starting with the most recent, list all places in which you have resided, or to which you have travelled/visited internationally, from the age of 16 to present. DO NOT LEAVE ANY GAPS IN TIME. For "Status in country", choose one of the following options: citizen; permanent resident; visitor; worker; student; protected person; refugee claimant; foreign national; or other (if "other", explain). For "Purpose of travel", indicate the reasons for your travel (e.g., business, school, leisure, intending immigrant, asylum seeker, etc.).																																														
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c)																																														
d)																																														
53 If any of the above travel was related to, paid for, or conducted on behalf of any group(s), organization(s), military(ies), paramilitary(ies), or government(s), including those relating to your inadmissibility, indicate the applicable letter(s) from the table above and provide details (e.g., specific information about the nature and purpose of the trip, your activities, how and why the trip was subsidized and/or conducted on behalf of the entity, etc.): 																																														

Section D - Appointment of Representative

You do not need to hire an immigration representative; it is your choice. No one can guarantee that the Minister of Public Safety and Emergency Preparedness will make a declaration of relief in your case.

A representative is someone who has provided advice or guidance to you prior to submitting your application, following the submission of your application, and/or someone who has your permission to conduct business on your behalf with the CBSA.

YOU MAY ONLY HAVE ONE REPRESENTATIVE AT A TIME PER APPLICATION.

The *Immigration and Refugee Protection Act* makes it an offence for any person who is not authorized under the Act to knowingly, directly or indirectly, represent or advise a person for consideration - or offer to do so - in connection with a proceeding or application under that Act. Consideration includes money or any other form of compensation or reward.

Are you using a representative with respect to your Application for a Declaration of Relief? Yes No

If YES, you must complete the *Use of a Representative* form (IMM 5476), available free of charge at www.cic.gc.ca. Include the completed form with your Application for a Declaration of Relief.

YOU MUST IMMEDIATELY ADVISE OF ANY CHANGE IN YOUR REPRESENTATION, INCLUDING CANCELLATION, OR A CHANGE OF ADDRESS, BY SUBMITTING A NEW, COMPLETED AND SIGNED IMM 5476 TO THE MINISTERIAL RELIEF UNIT.

Section E - Applicant Declaration

If you DID NOT require the assistance of an interpreter to complete this form, you must complete DECLARATION A.

If you DID require the assistance of an interpreter to complete this form, you must complete DECLARATION B. Make sure that all the questions, answers and instructions in the form, including this one, are interpreted to you before you sign DECLARATION B.

DECLARATION A

I declare that I am able to read English and that I have fully read and fully understood the entire contents of this form and all attached documents. I declare that I have fully and truthfully answered all questions and provided all relevant information on this application form including, if applicable, any additional pages or documents. I understand that providing false or misleading information is a serious offence, could reflect negatively on my application, and may be grounds for my prosecution.

Signature of Applicant

Date (DD-MM-YYYY)

A parent or legal guardian must sign on behalf of applicants under 18 years of age:

Full Name of Parent or Legal Guardian (type or print)

Relationship to Applicant

Signature of Parent or Legal Guardian

Date (DD-MM-YYYY)

DECLARATION B

I declare that the entire contents of this form and all attached documents have been interpreted to me, and that I have fully understood the entire contents of this form and all attached documents. I declare that I have fully and truthfully answered all questions and provided all relevant information on this application form including, if applicable, any additional pages or documents. I understand that providing false or misleading information is a serious offence, could reflect negatively on my application, and may be grounds for my prosecution.

Signature of Applicant

Date (DD-MM-YYYY)

A parent or legal guardian must sign on behalf of applicants under 18 years of age:

Full Name of Parent or Legal Guardian (type or print)

Relationship to Applicant

Signature of Parent or Legal Guardian

Date (DD-MM-YYYY)

Section F - Interpreter Declaration

I, (print full name clearly) _____, hereby declare that I have accurately interpreted the entire contents of this form and all attached documents for the applicant from the English language to the _____ language (state dialect, if any).

I am proficient in both of these languages (and dialect, if any), and was able to communicate effectively with the applicant. The applicant has assured me that they have understood the entire contents of this form and all attached documents and the answers provided, as interpreted by me.

Signature of Interpreter

Date (DD-MM-YYYY)

Section G - Privacy Statement

The information you provide in this document is collected under the authority of the *Immigration and Refugee Protection Act* (IRPA) and the *Immigration and Refugee Protection Regulations* (IRPR), for the purpose of processing your Application for a Declaration of Relief under subsection 42.1(1) of the IRPA. The information may be disclosed to Immigration, Refugees and Citizenship Canada; the Immigration and Refugee Board; the Canadian Security Intelligence Service; the Royal Canadian Mounted Police; the United States National Criminal Information Center; INTERPOL; and similar organizations to obtain information that will be used to help inform the Canada Border Services Agency's (CBSA) recommendation to the Minister of Public Safety and Emergency Preparedness on whether or not to make a declaration of relief.

Refusal to provide the requested information may result in processing delays or your application not being accepted for processing. Individuals have the right to access and to make corrections to their personal information under the *Privacy Act*. The information collected is described within *Info Source* under the Personal Information Bank CBSA PPU 1504, which is detailed within the [CBSA Info Source Chapter](#). Should you have concerns about the CBSA's handling of your personal information, you have a right to file a complaint with the Privacy Commissioner of Canada.

Section H - General Information

Pursuant to subsection 42.1(1) of the *Immigration and Refugee Protection Act* (IRPA) and related regulations, you are eligible to apply for a declaration of relief (commonly referred to as "Ministerial relief") if you have been determined to be inadmissible to Canada under section 34 (security), paragraphs 35(1)(b) or (c) (human or international rights violations), and/or subsection 37(1) of the IRPA (organized criminality), resulting in a removal order being issued against you and/or your application for temporary or permanent residence being refused. You are also eligible to apply if you were found to be inadmissible to Canada under a corresponding provision of subsection 19(1) of the former *Immigration Act* (IA). Applications which do not meet these requirements or which do not provide the mandatory information will be returned unprocessed.

The Minister of Public Safety and Emergency Preparedness (the Minister) may declare that the matters referred to in the aforementioned provisions of the IRPA do not constitute inadmissibility in your case if you satisfy the Minister that it is not contrary to the national interest. In considering whether to make a declaration of relief, the Minister may only take into account national security and public safety considerations, but his or her analysis is not limited to considering the danger that the applicant presents to the public or the security of Canada. The onus to satisfy the Minister that making a declaration of relief is not contrary to the national interest rests with the foreign national applying for relief and not with the CBSA or the Minister to prove otherwise.

The purpose of this application is to present the Minister with a specific set of information pertaining to the circumstances of your case, in addition to any supplementary submissions you may wish to include. This information may assist the Minister in his/her decision to grant or deny relief from your inadmissibility.

This application is made available by the Canada Border Services Agency (CBSA) and is not sold to applicants. It is available free of charge on the CBSA's website at www.cbsa.gc.ca.

ANSWERING THE QUESTIONS

The information you provide in your Application for a Declaration of Relief, and any accompanying submissions, must be complete, true and correct; otherwise, your application may not be accepted for processing. Make sure you understand the instructions and the questions before you write your answers. If you do not understand a question, ask someone to explain it to you.

Give details where applicable, and include dates, as well as names of places and persons. **YOU MUST RESPOND FULLY TO ALL QUESTIONS. IF YOU NEED MORE SPACE, USE ADDITIONAL SHEETS OF PAPER.** On each additional sheet, write your name and Canadian immigration identification number in the top right-hand corner, sign your initials beside your name, and write the page number in the bottom right-hand corner. Also, identify the section and question number for which you are providing additional information.

Sign the applicant's declaration at the end of the form when you are finished (see Section E - Applicant Declaration: Declaration A). Note that a parent or legal guardian must sign for a person under 18 years of age.

LANGUAGE

You can obtain and complete the Application for a Declaration of Relief in either of Canada's official languages: English or French. If you do not understand English or French, you will need to use an interpreter. Make sure that the interpreter reads to you all of the instructions and questions in the form, that you understand the questions and instructions, and that the interpreter understands your answers. **YOU ARE RESPONSIBLE FOR THE INFORMATION PROVIDED IN THIS APPLICATION AND ANY ATTACHMENTS OR SUBMISSIONS THAT YOU CHOOSE TO PROVIDE.** You and the interpreter must both sign the form when you are finished (see Section E - Applicant Declaration: Declaration B; and Section F - Interpreter Declaration).

APPLYING FOR A DECLARATION OF RELIEF

A completed and signed Application for a Declaration of Relief under Subsection 42.1(1) of the *Immigration and Refugee Protection Act*, and any related submissions, should be sent to the CBSA Ministerial Relief Unit (MRU) at the following address:

Ministerial Relief Unit
Canada Border Services Agency
100 Metcalfe Street, 10th floor
Ottawa, Ontario K1A 0L8

or via email at:

Ministerial_Relief.Exemptions_Ministerielles@cbsa-asfc.gc.ca

If your information changes or if you want to add information, you must inform the CBSA MRU. Circle or underline the information you changed or added to your Application for a Declaration of Relief, sign and date the changed pages, and send those pages (not a copy) to the CBSA MRU at the address specified above.

For more information, consult the *Guide to Applying for a Declaration of Relief under Subsection 42.1(1) of the Immigration and Refugee Protection Act*.

Demande de déclaration de dispense visée au paragraphe 42.1(1) de la *Loi sur l'immigration et la protection des réfugiés (LIPR)*

Remarque : Écrivez en caractères d'imprimerie ou dactylographiez les renseignements concernant votre demande dans les espaces ci-dessous. VOUS DEVEZ FOURNIR UNE RÉPONSE COMPLÈTE À TOUTES LES QUESTIONS. SI VOUS AVEZ BESOIN DE PLUS D'ESPACE, UTILISEZ DES FEUILLES SUPPLÉMENTAIRES. Sur chaque feuille supplémentaire, écrivez en caractères d'imprimerie votre nom et votre numéro d'identification canadien aux fins de l'immigration dans le coin supérieur droit, apposez vos initiales sous votre nom et inscrivez le numéro de la page dans le coin inférieur droit. En outre, indiquez la section visée ainsi que le numéro de la question à laquelle vous répondez en fourrissant des renseignements supplémentaires. Ce formulaire de demande est produit par l'Agence des services frontaliers du Canada et peut être téléchargé gratuitement à partir du site Web www.asfc.gc.ca.

Section A – Renseignements sur le demandeur

Renseignements personnels

1 Numéro d'identification canadien aux fins de l'immigration (p. ex. IUC ou tout autre numéro d'identification aux fins de l'immigration)

2 Nom(s) de famille	Prénom(s)
---------------------	-----------

3 Autre(s) nom(s) - Indiquez ci-dessous tout autre nom que vous avez déjà utilisé, le cas échéant

Surnom(s) : _____

Nom de jeune fille : _____

Alias : _____

Autre(s) (veuillez fournir des précisions : p. ex. changement légal de nom) : _____

4 Date de naissance	5 Sexe
Jour Mois Année	<input type="checkbox"/> Homme <input type="checkbox"/> Femme <input type="checkbox"/> Autre : _____

6 Village/ville et pays de naissance

7 Citoyenneté/nationalité (pays)	Mode d'obtention de la citoyenneté/ nationalité (p. ex. à la naissance ou par mariage)	Date d'obtention de la citoyenneté/ nationalité	Situation actuelle
		Jour Mois Année	
		Jour Mois Année	

8 Langue(s) parlée(s) (y compris les dialectes)

9 Langue officielle aux fins de correspondance - Choisissez la langue officielle dans laquelle vous souhaitez recevoir votre correspondance de l'ASFC et dans laquelle vous préférez que votre demande soit traitée (y compris pour la rédaction d'une recommandation aux fins de décision ministérielle).

Français Anglais

10 État matrimonial

<input type="checkbox"/> Célibataire	<input type="checkbox"/> Union de fait	<input type="checkbox"/> Marié	<input type="checkbox"/> Séparé légalement
<input type="checkbox"/> Mariage annulé	<input type="checkbox"/> Divorcé	<input type="checkbox"/> Veuf	<input type="checkbox"/> Inconnu

11 Si vous êtes marié ou vivez en union de fait, indiquez la date à laquelle vous vous êtes marié ou vous avez commencé à vivre en union de fait

Jour Mois Année

Indiquez le nom et la date de naissance de votre conjoint ou conjoint de fait actuel

12 Nom(s) de famille	Prénom(s)	13 Date de naissance
		Jour Mois Année

14 Avez-vous déjà été marié ou dans une union de fait?

Oui Non

Si OUI, fournissez les renseignements suivants sur votre conjoint(s) ou conjoint(s) de fait précédent

15 Nom(s) de famille	Prénom(s)	16 Date de naissance
		Jour Mois Année

17 Type de relation (p. ex. mariage ou union de fait)

18 Date de début de la relation	Date de fin de la relation
Jour Mois Année	Jour Mois Année

19 Situation actuelle de la relation (p. ex. séparé légalement, mariage annulé, divorcé ou veuf)

Coordonnées actuelles

(VOUS DEVEZ INFORMER IMMÉDIATEMENT L'UNITÉ DE LA DISPENSE MINISTÉRIELLE DE TOUT CHANGEMENT D'ADRESSE AFIN D'ÉVITER LA FERMETURE DE VOTRE DEMANDE.)

20	Numéro	Nom de la rue	
Case postale	App./unité	Ville	
Arrondissement		Province/État	Code postal
Pays		Nº de téléphone	<input type="checkbox"/> Domicile <input type="checkbox"/> Cellulaire <input type="checkbox"/> Travail
Nº de téléphone secondaire		<input type="checkbox"/> Domicile <input type="checkbox"/> Cellulaire <input type="checkbox"/> Travail	
		Adresse de courriel	

Adresse postale (si elle diffère de l'adresse ci-dessus)

(VOUS DEVEZ INFORMER IMMEDIATEMENT L'UNITE DE LA DISPENSE MINISTERIELLE DE TOUT CHANGEMENT D'ADRESSE AFIN D'EVITER LA FERMETURE DE VOTRE DEMANDE)

21 Numéro	Nom de la rue		
Case postale	App./unité	Ville	
Arrondissement		Province/État	Code postal
Pays			

Section B – Interdiction de territoire

Motifs d'interdiction de territoire au titre desquels vous demandez une déclaration de dispense ministérielle

- Veuillez cocher toutes les cases applicables et fournir les renseignements demandés, s'il y a lieu. Veuillez fournir des renseignements précis sous « Motifs d'interdiction de territoire », par exemple : avoir appartenu à une organisation (précisez si le groupe faisait partie du crime organisé ou se livrait au terrorisme, à l'espionnage, à la subversion, etc.); avoir occupé un poste de rang supérieur au sein d'un régime désigné; avoir participé à un ou à des actes, ou en avoir été l'instigateur (précisez si vous avez fait partie du crime organisé ou si vous vous êtes livré au terrorisme, à l'espionnage, à la subversion, à la violence ou à la criminalité transnationale [p. ex. passage de clandestins, traite de personnes, blanchiment d'argent]); constituer un danger pour la sécurité du Canada; être une personne dont l'entrée ou le séjour au Canada est limité au titre d'une décision, d'une résolution ou d'une mesure (aussi appelée « sanction ») d'une organisation internationale d'États ou d'une association d'États dont le Canada est membre. Le cas échéant, veillez à indiquer la ou les organisations visées, à identifier le ou les régimes désignés ou à préciser le type d'actes que vous avez commis et qui justifient votre interdiction de territoire.

Paragraphe de la LIPR	Alinéa de la LIPR	Motifs d'interdiction de territoire	Date de la décision d'interdiction de territoire	Ville et pays de la décision d'interdiction de territoire
34(1) <input type="checkbox"/>	a) <input type="checkbox"/>		Jour Mois Année 	
	b) <input type="checkbox"/>		Jour Mois Année 	
	b.1) <input type="checkbox"/>		Jour Mois Année 	
	c) <input type="checkbox"/>		Jour Mois Année 	
	d) <input type="checkbox"/>		Jour Mois Année 	
	e) <input type="checkbox"/>		Jour Mois Année 	
	f) <input type="checkbox"/>		Jour Mois Année 	
35(1) <input type="checkbox"/>	b) <input type="checkbox"/>		Jour Mois Année 	
	c) <input type="checkbox"/>		Jour Mois Année 	
37(1) <input type="checkbox"/>	a) <input type="checkbox"/>		Jour Mois Année 	
	b) <input type="checkbox"/>		Jour Mois Année 	
J'ai été jugé interdit de territoire aux termes du paragraphe 19(1) de l'ancienne Loi sur l'immigration (LI) pour des motifs de sécurité, d'atteinte aux droits humains ou internationaux, ou de criminalité organisée <input type="checkbox"/>				
Pécisez la ou les dispositions :			Jour Mois Année 	

Circonstances de l'interdiction de territoire		
<p>Cochez, ci-dessous, tous les énoncés décrivant les circonstances de votre interdiction de territoire au titre des dispositions susmentionnées. Si possible, joignez au présent formulaire une copie de la mesure de renvoi ou de la décision d'interdiction de territoire ou de refus.</p>		
2	J'ai été jugé interdit de territoire au Canada par la Commission de l'immigration et du statut de réfugié et une mesure de renvoi a été prononcée	<input type="checkbox"/>
3	Ma demande de résidence temporaire canadienne a été rejetée, car il existe des motifs raisonnables de croire que je suis interdit de territoire	<input type="checkbox"/>
4	Ma demande de résidence permanente canadienne a été rejetée, car il existe des motifs raisonnables de croire que je suis interdit de territoire	<input type="checkbox"/>
5	Votre interdiction de territoire fait-elle actuellement l'objet d'une procédure judiciaire ou entendez-vous entreprendre une procédure judiciaire pour contester votre interdiction de territoire?	<input type="checkbox"/> Oui <input type="checkbox"/> Non
Autres circonstances de l'interdiction de territoire		
6	Avez-vous été désigné ou jugé interdit de territoire au Canada au titre de toute autre disposition de la LIPR ou de l'ancienne LI, autres celles répertoriées ci-dessus?	<input type="checkbox"/> Oui <input type="checkbox"/> Non
<p>Remarque : La déclaration de dispense ne peut pas servir de voie de recours dans les cas d'interdiction de territoire non reliée à des motifs de sécurité, d'atteinte aux droits humains ou internationaux, ou de criminalité organisée aux termes du paragraphe 42.1(1) de la LIPR; toutefois, l'information fournie aux présentes peut être prise en considération dans le contexte de l'évaluation, par le ministre, des facteurs d'intérêt national.</p>		
<p>Si OUI, veuillez fournir des renseignements sur l'interdiction de territoire, y compris les motifs précis de cette décision, la date à laquelle vous avez été désigné ou jugé interdit de territoire au Canada, ainsi que la ville et le pays dans lequel le rapport a été établi ou la décision d'interdiction de territoire a été prise. Précisez également le bureau canadien des visas ou le bureau d'Immigration, Réfugiés et Citoyenneté Canada (IRCC), de la Commission de l'immigration et du statut de réfugié (CISR) ou de l'Agence des services frontaliers du Canada (ASFC) dans lequel le rapport a été établi ou la décision d'interdiction de territoire a été prise. Si possible, joignez au présent formulaire une copie du rapport, de la mesure de renvoi ou de la décision d'interdiction de territoire.</p>		
Renseignements supplémentaires		
<p>Répondez aux questions suivantes en cochant toutes les cases pertinentes :</p>		
7	Vous êtes-vous déjà vu refuser le statut de réfugié au Canada ou dans un autre pays, ou un visa d'immigrant ou de visiteur pour le Canada ou tout autre pays?	<input type="checkbox"/> Oui <input type="checkbox"/> Non
8	Vous êtes-vous déjà vu refuser l'admission au Canada ou dans tout autre pays, ou avez-vous déjà reçu l'ordre de quitter le Canada ou tout autre pays?	<input type="checkbox"/> Oui <input type="checkbox"/> Non
9	Avez-vous déjà été recherché, arrêté, détenu ou emprisonné, peu importe les circonstances? (Cette question ne porte pas seulement sur l'emprisonnement en raison d'activités criminelles.)	<input type="checkbox"/> Oui <input type="checkbox"/> Non
10	Avez-vous déjà eu recours, planifié d'avoir recours ou prôné le recours à la lutte armée ou à la violence dans le but d'atteindre des objectifs politiques, religieux ou sociaux?	<input type="checkbox"/> Oui <input type="checkbox"/> Non
11	Si vous avez été jugé interdit de territoire en raison de votre participation aux activités d'un groupe, d'une organisation, d'un groupe militaire ou paramilitaire, ou d'un gouvernement ou d'un régime désigné, votre participation était-elle volontaire?	<input type="checkbox"/> Oui <input type="checkbox"/> Non <input type="checkbox"/> S.O.
12	a) Si vous avez été associé à un groupe militaire ou paramilitaire, ou à un gouvernement ou régime désigné, étiez-vous au courant de sa participation à des activités belligérantes?	<input type="checkbox"/> Oui <input type="checkbox"/> Non <input type="checkbox"/> S.O.
	b) Si vous avez été associé à un groupe militaire ou paramilitaire, ou à un gouvernement ou régime désigné, avez-vous participé à des activités belligérantes ou avez-vous fourni un soutien dans le cadre de telles activités?	<input type="checkbox"/> Oui <input type="checkbox"/> Non <input type="checkbox"/> S.O.
13	a) Avez-vous déjà été associé ou appartenu à un groupe ou à une organisation qui a ou qui a eu recours à la lutte armée ou à la violence, ou qui prône un tel recours, afin d'atteindre des objectifs politiques, religieux ou sociaux?	<input type="checkbox"/> Oui <input type="checkbox"/> Non
	b) Si OUI, étiez-vous au courant durant votre association avec ce groupe ou cette organisation de ses activités violentes?	<input type="checkbox"/> Oui <input type="checkbox"/> Non <input type="checkbox"/> S.O.
14	a) Avez-vous déjà fait partie du crime organisé ou vous êtes-vous déjà livré à l'espionnage, à la subversion, au terrorisme ou à la criminalité transnationale (p. ex. passage de clandestins, traite de personnes, blanchiment d'argent)?	<input type="checkbox"/> Oui <input type="checkbox"/> Non
	b) Si OUI, votre participation était-elle volontaire?	<input type="checkbox"/> Oui <input type="checkbox"/> Non <input type="checkbox"/> S.O.
15	Avez-vous déjà pris part à un acte de génocide, à un crime de guerre ou à un crime contre l'humanité, ou avez-vous déjà prôné de tels actes ou crimes, par exemple l'assassinat, la torture, l'agression, la déportation, la réduction en esclavage, la privation de nourriture, la destruction illégale de biens ou d'autres actes inhumains commis contre des civils ou des prisonniers de guerre, que ce soit en temps de guerre ou en temps de paix?	<input type="checkbox"/> Oui <input type="checkbox"/> Non
16	Votre entrée ou votre séjour au Canada est-il limité au titre d'une décision, d'une résolution ou d'une mesure (aussi appelée « sanction ») d'une organisation internationale d'États ou d'une association d'États dont le Canada est membre?	<input type="checkbox"/> Oui <input type="checkbox"/> Non

Si vous avez répondu **OUI** à l'une ou l'autre des questions ci-dessus, veuillez fournir les renseignements pertinents dans cet espace (en indiquant le numéro de la question) et joindre à votre demande tous les documents justificatifs disponibles.

Section C – Renseignements de base

Scolarité et formation

- 1 En commençant par l'élément le plus récent, énumérez l'ensemble de votre scolarité ou de votre formation formelle. Indiquez tous les établissements primaires, secondaires, postsecondaires, techniques et de formation professionnelle que vous avez fréquentés, peu importe si vous avez achevé le programme suivi ou obtenu un diplôme, un grade ou un certificat.

De	À	Nom de l'établissement et domaine d'études	Village, ville, district, région Etat/province et pays	Niveau, grade, diplôme ou certificat obtenu
Mois	Année	Mois	Année	

Emplois et bénévolat

- 2 En commençant par le plus récent, énumérez tous les emplois que vous avez occupés, qu'il s'agisse d'emplois à temps plein, à temps partiel, temporaires ou indépendants, et tout le travail bénévole que vous avez effectué depuis l'âge de 16 ans. N'OMETTEZ PAS DE PÉRIODE SANS FOURNIR D'EXPLICATION. Si vous ne travaillez pas, donnez des renseignements sur ce que vous faisiez (p. ex. chômage, études, voyage, retraite, bénévolat, en détention, etc.).

De	À	Titre du poste	Nom de l'employeur, de l'entreprise ou de l'organisation	Village, ville, district, région Etat/province et pays
Mois	Année	Mois	Année	

Fonctions / responsabilités

De	À	Titre du poste	Nom de l'employeur, de l'entreprise ou de l'organisation	Village, ville, district, région Etat/province et pays
Mois	Année	Mois	Année	

Fonctions / responsabilités

De	À	Titre du poste	Nom de l'employeur, de l'entreprise ou de l'organisation	Village, ville, district, région, État/province et pays
Mois Année	Mois Année			
Fonctions / responsabilités				
De	À	Titre du poste	Nom de l'employeur, de l'entreprise ou de l'organisation	Village, ville, district, région, État/province et pays
Mois Année	Mois Année			
Fonctions / responsabilités				
Appartenance et association à des organisations				
<p>3 En commençant par l'élément le plus récent, énumérez l'ensemble des organisations aux activités desquelles vous avez participé; dont vous êtes ou vous avez été membre; auxquelles vous êtes ou vous étiez associé; que vous soutenez ou que vous avez soutenu. Précisez sous « Type d'organisation » le type de groupe (p. ex. politique, social, étudiant, de jeunes, etc.) ou d'organisation professionnelle (p. ex. syndicat, associations professionnelles, etc.). Veillez indiquer toute branche, toute faction, tout groupe dissident, etc. auquel vous appartenez ou vous avez appartenu, auquel vous êtes ou avez été associé, ou que vous soutenez ou que vous avez soutenu. N'utilisez pas d'abréviations.</p> <p>Je n'ai jamais appartenu ni été associé à aucune organisation; je n'en ai jamais soutenu ni appuyé aucune; et je n'ai jamais contribué ni participé à ses activités, que ce soit financièrement ou autrement. <input type="checkbox"/></p>				
De	À	Nom de l'organisation	Type d'organisation	Village, ville, district, région, État/province et pays
Mois Année	Mois Année			
Titre(s), rôle(s) et/ou postes		Activités / fonctions / responsabilités		
De	À	Nom de l'organisation	Type d'organisation	Village, ville, district, région, État/province et pays
Mois Année	Mois Année			
Titre(s), rôle(s) et/ou postes		Activités / fonctions / responsabilités		

De	À	Nom de l'organisation	Type d'organisation	Village, ville, district, région, État/province et pays
Mois	Année	Mois	Année	
Titre(s), rôle(s) et/ou postes		Activités / fonctions / responsabilités		
De	À	Nom de l'organisation	Type d'organisation	Village, ville, district, région, État/province et pays
Mois	Année	Mois	Année	
Titre(s), rôle(s) et/ou postes		Activités / fonctions / responsabilités		
Postes occupés au sein d'un gouvernement				
<input checked="" type="checkbox"/> En commençant par le plus récent, énumérez tous les postes que vous avez occupés au sein d'un gouvernement, qu'il s'agisse d'un poste d'employé de bureau, de fonctionnaire, de gardien de prison, de juge ou d'agent du renseignement, etc. N'utilisez pas d'abréviations.				
Je n'ai jamais détenu de poste au sein d'un gouvernement. <input type="checkbox"/>				
De	À	Ordre de gouvernement (p. ex. national, régional ou municipal)	Ministère/direction	Village, ville, district, région, État/province et pays
Mois	Année	Mois	Année	
Titre(s), rôle(s) et/ou postes		Fonctions / responsabilités		
De	À	Ordre de gouvernement (p. ex. national, régional ou municipal)	Ministère/direction	Village, ville, district, région, État/province et pays
Mois	Année	Mois	Année	
Titre(s), rôle(s) et/ou postes		Fonctions / responsabilités		

De	À	Ordre de gouvernement (p. ex. national, régional ou municipal)	Ministère/direction	Village, ville, district, région, État/province et pays																																						
Mois Année	Mois Année																																									
Titre(s), rôle(s) et/ou postes		Fonctions / responsabilités																																								
<p>5 Si l'un ou l'autre des postes gouvernementaux que vous avez occupés impliquait la collecte ou l'analyse de renseignements, indiquez lequel ou lesquels et détaillez vos activités dans cet espace :</p>																																										
<p>Service militaire, paramilitaire ou policier</p> <p>6 Avez-vous déjà effectué un QUELCONQUE service militaire (p.ex. forces armées, milice, police militaire ou défense territoriale), paramilitaire ou policier? <input type="checkbox"/> Oui <input type="checkbox"/> Non</p> <p>Si OUI, remplissez le tableau suivant pour chaque service effectué sur une base volontaire ou obligatoire (p. ex. dans le cadre du service national obligatoire), dans les forces régulières ou les forces de réserve, à temps plein ou à temps partiel, dans n'importe quel pays.</p> <table border="1"> <tr> <td>7 Type de service (militaire, paramilitaire ou policier)</td> <td>8 Nom de l'organisation</td> </tr> <tr> <td colspan="2">9 Nature de la participation</td> </tr> <tr> <td colspan="2"> <input type="checkbox"/> Volontaire <input type="checkbox"/> Obligatoire </td> </tr> <tr> <td>10 Date de début du service</td> <td>Date de fin du service</td> </tr> <tr> <td style="text-align: center;">Jour</td> <td style="text-align: center;">Mois</td> <td style="text-align: center;">Année</td> <td style="text-align: center;">Jour</td> <td style="text-align: center;">Mois</td> <td style="text-align: center;">Année</td> </tr> <tr> <td colspan="6">11 Vos titres et rangs au début et à la fin de votre service</td> </tr> <tr> <td colspan="6">12 Prix, médailles et mentions élogieuses reçus (précisez la ou les dates)</td> </tr> <tr> <td colspan="6">13 Mesures disciplinaires prises contre vous (p. ex. amendes, sentence, emprisonnement, traduction devant une cour martiale ou exclusion pour cause d'indignité). Précisez la ou les dates.</td> </tr> <tr> <td colspan="6">14 Pays dans lequel ou lesquels le service a été réalisé</td> </tr> </table>					7 Type de service (militaire, paramilitaire ou policier)	8 Nom de l'organisation	9 Nature de la participation		<input type="checkbox"/> Volontaire <input type="checkbox"/> Obligatoire		10 Date de début du service	Date de fin du service	Jour	Mois	Année	Jour	Mois	Année	11 Vos titres et rangs au début et à la fin de votre service						12 Prix, médailles et mentions élogieuses reçus (précisez la ou les dates)						13 Mesures disciplinaires prises contre vous (p. ex. amendes, sentence, emprisonnement, traduction devant une cour martiale ou exclusion pour cause d'indignité). Précisez la ou les dates.						14 Pays dans lequel ou lesquels le service a été réalisé					
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15 Décrivez vos rôles, vos tâches et vos responsabilités : (p. ex. gardien, agent des services frontaliers, policier, détective, fantassin, artilleur, membre de la police militaire, opérateur radio, membre des forces spéciales, agent du renseignement, interrogateur, etc.). Précisez les rangs/postes ainsi que les dates de promotion correspondantes. Indiquez tous les lieux où vous avez servi (base/ village/ ville/ région et pays), de même que : les dates; les services et les unités au sein desquels vous avez servi; le nombre de personnes sous votre supervision; les noms et les rangs de votre officier superviseur immédiat, le commandant de l'unité/du régiment, et le commandant du groupe opérationnel/corps :	
16 Type de service (militaire, paramilitaire ou policier)	
17 Nom de l'organisation	
18 Nature de la participation	
<input type="checkbox"/> Volontaire <input type="checkbox"/> Obligatoire	
19 Date de début du service	Date de fin du service
Jour Mois Année	Jour Mois Année
20 Vos titres et rangs au début et à la fin de votre service	
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25 Si vous avez indiqué avoir effectué un service militaire, paramilitaire ou policier sur une base OBLIGATOIRE, veuillez en fournir les détails dans le tableau suivant.

Nom de l'organisation	Est-ce qu'une durée de service minimale était exigée?	Si OUI, quelle était la durée de service minimale exigée?	Est-ce que la conscription à un âge déterminé était en vigueur?	Si OUI, quel était l'âge de la conscription?	Dans quelles circonstances votre service a-t-il pris fin (p. ex. service terminé, désertion, raisons médicales etc.)?
	<input type="checkbox"/> Oui <input type="checkbox"/> Non		<input type="checkbox"/> Oui <input type="checkbox"/> Non		
	<input type="checkbox"/> Oui <input type="checkbox"/> Non		<input type="checkbox"/> Oui <input type="checkbox"/> Non		
	<input type="checkbox"/> Oui <input type="checkbox"/> Non		<input type="checkbox"/> Oui <input type="checkbox"/> Non		
	<input type="checkbox"/> Oui <input type="checkbox"/> Non		<input type="checkbox"/> Oui <input type="checkbox"/> Non		

26 Avez-vous déjà suivi ou donné une formation militaire, paramilitaire ou policière, ou y avez-vous déjà pris part de quelque façon que ce soit, que vous vous soyez joint aux services en question ou non? Cela inclut, mais sans s'y limiter: formation sur la sécurité; formation en leadership; stratégie et planification stratégique; formation axée sur des compétences (p. ex. maniement des armes, équipement, techniques de campagne, entraînement physique, etc.); tactiques, techniques, et procédures associées à un rôle donné; soutien aux opérations (p. ex. logistique, administration, services alimentaires, soins médicaux, etc.); entraînement spécialisé (p. ex. contre-insurrection, commando, renseignement, combat à mains nues, tir d'élite, interrogation, opérations spéciales ou secrètes, etc.)?

Oui Non

Si OUI, veuillez fournir de plus amples renseignements (p. ex. type de formation, durée, dates et lieux, contenu du cours, nom de l'organisation ayant donné le cours, etc.). Soyez précis :

27 Avez-vous participé, que ce soit directement ou indirectement, à un conflit, à un acte de violence, à un échange de tirs, etc., durant votre service militaire, paramilitaire ou policier, ou durant votre formation? Oui Non

Si OUI, détaillez chaque incident et ses circonstances. Soyez précis :

28 Avez-vous déjà été témoin de mauvais traitements infligés à des prisonniers ou à des civils, de prises d'otages ou d'actes de pillage ou de profanation d'artéfacts ou de bâtiments culturels ou religieux, ou avez-vous déjà participé vous-mêmes à de tels actes?

Oui Non

Si OUI, fournissez des précisions :

Antécédents criminels

(INFORMEZ IMMÉDIATEMENT L'UNITÉ DE LA DISPENSE MINISTÉRIELLE DE TOUT CHANGEMENT TOUCHANT VOS ANTECÉDENTS CRIMINELS, LES ACCUSATIONS DONT VOUS ÊTES L'OBJET OU VOTRE CASIER JUDICIAIRE.)

29 Avez-vous déjà commis un crime ou une infraction ou été impliqué dans un crime ou une infraction, avez-vous déjà été arrêté, accusé, jugé ou reconnu coupable relativement à un crime ou à une infraction, ou avez-vous déjà fait l'objet d'un mandat d'arrêt ou de poursuites au criminel dans n'importe quel pays, y compris le Canada?

Oui Non

Si OUI, remplissez le tableau suivant et joignez au présent formulaire tout document à l'appui disponible (p. ex. acte d'accusation, casier judiciaire, confirmation de pardon ou de réhabilitation, etc.). Décrivez sous « Type et code de l'infraction » le type d'infraction et indiquez le numéro de l'article et le titre du texte de la législation criminelle ou civile (p. ex. « Conduire un véhicule avec les facultés affaiblies [conduite sous l'influence d'alcool ou de drogues], Code criminel canadien (C.cr.) 253(1)b) »; « voies de fait causant des lésions corporelles », C.cr. 267b) »; « Recel, Code des États-Unis, titre 18, § 2315 », etc.). Énumérez la totalité des infractions et des crimes, même dans les cas où vous n'avez fait l'objet d'aucune accusation.

30 Type et code du crime ou de l'infraction (le cas échéant)				
31 Date des infractions ou des crimes allégués	Jour	Mois	Année	
32 Date à laquelle les accusations ont été portées	Jour	Mois	Année	
33 Ville et pays où l'infraction a été commise ou où les accusations ont été portées	34 Date du jugement	Jour	Mois	Année
35 Détails du jugement (indiquez le résultat des accusations [p. ex. retrait, rejet, acquittement, condamnation, condamnation avec sursis ou suspension de peine, plaidoyer de culpabilité, absolution inconditionnelle ou sous condition, engagement de ne pas troubler l'ordre public, ordonnance de probation, etc.] et précisez le tribunal ayant rendu le jugement). Si vous avez été reconnu coupable, indiquez clairement pour quel crime ou quelle infraction :				
36 Avez-vous été reconnu coupable?	<input type="checkbox"/> Oui <input type="checkbox"/> Non			
Si OUI, quelle peine vous a été infligée?				
37 Dates de début et de fin de la peine	Du	Au		
	Mois	Année	Mois	Année
38 Établissement et emplacement (ville et pays) où la peine a été purgée				
39 Avez-vous purgé votre peine au complet?	<input type="checkbox"/> Oui <input type="checkbox"/> Non			
Si NON, veuillez en indiquer les raisons (p. ex. la peine a été réduite en raison du temps passé en détention avant le procès, on vous a accordé la libération conditionnelle [vous avez été libéré de façon anticipée tout en demeurant assujetti à une surveillance, à des restrictions et à des conditions], vous avez été libéré pour des motifs humanitaires, vous avez purgé simultanément deux peines ou plus, etc.) :				
40 Avez-vous profité d'une suspension de casier judiciaire (pardon), votre casier judiciaire a-t-il été expurgé ou êtes-vous considéré comme réhabilité?	<input type="checkbox"/> Oui <input type="checkbox"/> Non			
Si OUI, fournissez de plus amples renseignements (indiquez la date du pardon et l'organisme qui l'a accordé) et joignez au présent formulaire tout document à l'appui disponible.				
41 Type et code du crime ou de l'infraction (le cas échéant)				
42 Date des infractions ou des crimes allégués	Jour	Mois	Année	
43 Date à laquelle les accusations ont été portées	Jour	Mois	Année	
44 Ville et pays où l'infraction a été commise ou où les accusations ont été portées	45 Date du jugement	Jour	Mois	Année

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Précédents pays de résidence ou de voyage international																																
52 En commençant par le plus récent, énumérez tous les lieux où vous avez résidé ou auxquels vous avez effectué une visite ou un voyage international depuis l'âge de 16 ans. N'OMETTEZ PAS DE PÉRIODE SANS FOURNIR D'EXPLICATION. Sous « Statut dans le pays », sélectionnez l'une des options suivantes : citoyen; résident permanent; visiteur; travailleur; étudiant; personne protégée; demandeur d'asile; ressortissant étranger; ou autre (dans ce cas, veuillez expliquer votre réponse). Sous « But du voyage », indiquez les motifs du voyage (p. ex. affaires, études, loisirs, tentative d'immigration, demande d'asile, etc.).																																
Du		Au	Ville et pays	Statut dans le pays	But du voyage																											
a)	Jour Mois Année	Jour Mois Année																														
b)	Jour Mois Année	Jour Mois Année																														
c)	Jour Mois Année	Jour Mois Année																														
d)	Jour Mois Année	Jour Mois Année																														
53 Si aucun des voyages mentionnés ci-haut ont été liés, payés ou entrepris pour un ou plusieurs des groupes, organisations, militaires, paramilitaires ou gouvernements, y compris ceux relatifs à votre interdiction de territoire, indiquez la/les lettre(s) de la ligne qui s'applique(nt) et fournissez de plus amples informations détaillées (p. ex. précisez la nature et le but du voyage, vos activités, comment et pourquoi le voyage a été subventionné et/ou effectué pour le compte de l'entité en question, etc.) :																																

Section D - Désignation d'un représentant

Vous n'êtes pas tenu de retenir les services d'un représentant en immigration; le choix vous revient. Personne ne peut vous garantir que le ministre de la Sécurité publique et de la Protection civile fera une déclaration de dispense dans votre dossier.

Un représentant est une personne qui vous a fourni des conseils ou des directives avant de soumettre votre demande, après la présentation de celle-ci ou une personne qui a votre permission d'agir en votre nom auprès de l'ASFC.

VOUS NE POUVEZ AVOIR QU'UN SEUL REPRÉSENTANT À LA FOIS PAR DEMANDE.

Au titre de la *Loi sur l'immigration et la protection des réfugiés*, commet une infraction toute personne non autorisée en vertu de la Loi qui, sciemment, de façon directe ou indirecte, représente ou conseille une personne, moyennant rétribution, relativement à une demande ou à une instance prévue par la présente loi, ou offre de le faire. La rétribution peut être pécuniaire ou représenter toute autre forme de rémunération ou de récompense.

Faites-vous appel à un représentant dans le cadre de votre demande de déclaration de dispense? Oui Non

Si OUI, vous devez remplir le formulaire *Recours aux services d'un représentant* (IMM 5476), qui est accessible gratuitement dans le site Web www.cic.gc.ca. Joignez ce formulaire dûment rempli à votre demande de déclaration de dispense.

VOUS DEVEZ COMMUNIQUER IMMÉDIATEMENT À L'UNITÉ DE LA DISPENSE MINISTÉRIELLE TOUT CHANGEMENT QUANT À LA PERSONNE QUI VOUS REPRÉSENTE, Y COMPRIS UNE CESSATION DE SERVICE OU UN CHANGEMENT D'ADRESSE, EN SOUMETTANT UN NOUVEAU FORMULAIRE IMM 5476 DÛMENT REMPLI ET SIGNÉ.

Section E - Déclaration du demandeur

Si vous N'AVEZ PAS reçu l'aide d'un interprète pour remplir le présent formulaire, vous devez remplir la **DÉCLARATION A**.

Si vous AVEZ reçu l'aide d'un interprète pour remplir le présent formulaire, vous devez remplir la **DÉCLARATION B**. Avant de signer la **DÉCLARATION B**, assurez-vous que toutes les questions, les réponses et les instructions présentées dans ce formulaire, y compris celle-ci, ont été interprétées pour vous.

DÉCLARATION A

Je sais lire le français et je suis en mesure de bien lire et de bientôt comprendre le contenu du présent formulaire et tous les documents qui y sont joints. J'ai fourni des renseignements pertinents et des réponses complètes et exactes à toutes les questions du présent formulaire de demande, y compris, le cas échéant, dans les pages ou les documents joints à celui-ci. Je comprends que le fait de fournir des renseignements faux ou trompeurs constitue une infraction grave qui pourrait avoir une conséquence négative sur ma demande, et m'exposer à des poursuites.

Signature du demandeur

Date (JJ-MM-AAAA)

Un parent ou un tuteur légal doit signer au nom de tout demandeur âgé de moins de 18 ans :

Nom complet du parent ou du tuteur légal (en caractères d'imprimerie)

Relation avec le demandeur

Signature du parent ou du tuteur légal

Date (JJ-MM-AAAA)

DECLARATION B

La totalité du contenu du présent formulaire et de tous les documents qui y sont joints m'a été interprété, et je confirme avoir bien compris l'intégralité de ce contenu. J'ai fourni des renseignements pertinents et des réponses complètes et exactes à toutes les questions du présent formulaire de demande, y compris, le cas échéant, dans les pages ou les documents joints à celui-ci. Je comprends que le fait de fournir des renseignements faux ou trompeurs constitue une infraction grave qui pourrait avoir une conséquence négative sur ma demande, et m'exposer à des poursuites.

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Nom complet du parent ou du tuteur légal (en caractères d'imprimerie)

Relation avec le demandeur

Signature du parent ou du tuteur légal

Date (JJ-MM-AAAA)

Section F - Déclaration de l'interprète

Je, (écrivez clairement votre nom au complet en caractères d'imprimerie) _____, atteste que j'ai interprété fidèlement le contenu intégral du présent formulaire et tous les documents joints pour le demandeur du français à/au _____ (indiquez le dialecte, le cas échéant).

Je maîtrise ces deux langues (et ce dialecte, le cas échéant) et j'ai pu communiquer efficacement avec le demandeur. Le demandeur m'a assuré avoir bien compris le contenu intégral du présent formulaire et tous les documents joints et les réponses fournies, tels que je les ai interprétés.

Signature de l'interprète

Date (JJ-MM-AAAA)

Section G - Déclaration sur la protection des renseignements personnels

Les renseignements que vous fournissez dans le présent document sont recueillis en vertu de la *Loi sur l'immigration et la protection des réfugiés* (LIPR) et du *Règlement sur l'immigration et la protection des réfugiés* (RIPR) aux fins du traitement de votre demande de déclaration de dispense visée au paragraphe 42.1(1) de la LIPR. Ces renseignements pourraient être divulgués à Immigration, Réfugiés et Citoyenneté Canada; à la Commission de l'immigration et du statut de réfugié; au Service canadien du renseignement de sécurité; à la Gendarmerie royale du Canada; au National Criminal Information Center des États-Unis; à INTERPOL; et à des organisations semblables en vue d'obtenir de l'information susceptible d'aider l'Agence des services frontaliers du Canada (ASFC) à formuler une recommandation au ministre de la Sécurité publique et de la Protection civile quant à l'opportunité de faire une déclaration de dispense.

Tout refus de fournir les renseignements demandés pourrait entraîner des retards dans le traitement de votre demande, voire le refus d'entreprendre son traitement. En vertu de la *Loi sur la protection des renseignements personnels*, toute personne a le droit d'accéder à ses renseignements personnels ou d'y apporter des corrections. Les renseignements recueillis sont décrits dans *Info Source*, sous le Fichier de renseignements personnels - ASFC PPU 1504, qui est présenté dans le chapitre sur l'ASFC d'*Info Source*. Si vous avez des préoccupations quant à la façon dont l'ASFC gère vos renseignements personnels, vous avez le droit de déposer une plainte auprès du Commissariat à la protection de la vie privée du Canada.

Section H - Renseignements généraux

En vertu du paragraphe 42.1(1) de la *Loi sur l'immigration et la protection des réfugiés* (LIPR) et du règlement connexe, vous pouvez demander une déclaration de dispense (aussi appelée « dispense ministérielle ») si vous avez été jugé interdit de territoire au Canada au titre du paragraphe 34(1) [sécurité], des alinéas 35(1)b ou 35(1)c [atteinte aux droits humains ou internationaux] ou au paragraphe 37(1) [activités de criminalité organisée] de la LIPR, ce qui entraîne l'adoption d'une mesure de renvoi ou le rejet de votre demande de résidence temporaire ou permanente. Vous pouvez également présenter une demande si vous avez été jugé interdit de territoire au Canada au titre d'une disposition correspondante du paragraphe 19(1) de l'ancienne *Loi sur l'immigration* (LI). Toute demande qui ne satisfait pas à ces exigences ou qui ne contient pas tous les renseignements obligatoires sera retournée sans avoir été traitée.

Le ministre de la Sécurité publique et de la Protection civile (le ministre) peut déclarer que les questions visées par les dispositions susmentionnées de la LIPR ne constituent pas un motif d'interdiction de territoire dans votre cas si vous lui démontrez que celles-ci ne sont pas contraires à l'intérêt national. Pour décider s'il fait la déclaration de dispense, le ministre ne doit tenir compte que de considérations relatives à la sécurité nationale et à la sécurité publique; toutefois, il ne limite pas son analyse au fait que l'étranger constitue ou non un danger pour le public ou la sécurité du Canada. Il incombe au ressortissant étranger qui demande une déclaration de dispense de convaincre le ministre qu'une éventuelle déclaration de dispense n'irait pas à l'encontre de l'intérêt national. Ni l'ASFC ni le ministre ne sont tenus de démontrer le contraire.

La présente demande vise à présenter au ministre un ensemble de renseignements précis se rapportant aux circonstances de votre dossier, en plus de tout autre document supplémentaire que vous souhaitez lui soumettre. Ces renseignements peuvent aider le ministre à déterminer s'il vous accorde ou non une dispense de votre interdiction de territoire.

Cette demande est mise gratuitement à la disposition des demandeurs par l'Agence des services frontaliers du Canada (ASFC). Vous pouvez l'obtenir sans frais dans le site Web de l'ASFC à l'adresse www.asfc.gc.ca.

RÉPONDRE AUX QUESTIONS

Les renseignements que vous fournissez dans votre demande de déclaration de dispense et dans les documents qui y sont joints doivent être complets, véridiques et exacts. Sinon, votre demande pourrait ne pas être traitée. Assurez-vous de comprendre les instructions et les questions avant d'écrire vos réponses. Si vous ne comprenez pas une question, demandez que quelqu'un vous l'explique.

Donnez des renseignements détaillés, le cas échéant, et indiquez les dates ainsi que les noms de lieux et de personnes. **VOUS DEVEZ FOURNIR UNE RÉPONSE COMPLÈTE À TOUTES LES QUESTIONS. SI VOUS AVEZ BESOIN DE PLUS D'ESPACE, UTILISEZ DES FEUILLES SUPPLÉMENTAIRES.** Sur chaque feuille supplémentaire, écrivez votre nom et votre numéro d'identification canadien aux fins de l'immigration dans le coin supérieur droit, apposez vos initiales à côté de votre nom et inscrivez le numéro de la page dans le coin inférieur droit. En outre, indiquez la section et le numéro de la question pour lesquelles vous fournissez des renseignements supplémentaires.

Signez la déclaration du demandeur à la fin du formulaire lorsque vous avez fini de le remplir (voir la section E - Déclaration du demandeur : déclaration A). Veuillez noter qu'un parent ou un tuteur légal doit signer au nom de tout demandeur âgé de moins de 18 ans.

LANGUE

Vous pouvez obtenir et remplir une demande de déclaration de dispense dans l'une ou l'autre des deux langues officielles du Canada : le français et l'anglais. Si vous ne comprenez ni le français ni l'anglais, vous devrez utiliser les services d'un interprète. Vérifiez que l'interprète vous lit bien toutes les instructions et questions contenues dans le formulaire, que vous les comprenez bien, et qu'il comprend vos réponses. **VOUS ÊTES RESPONSABLE DES RENSEIGNEMENTS CONSIGNÉS DANS CETTE DEMANDE ET DANS TOUT DOCUMENT JOINT OU SUPPLÉMENTAIRE QUE VOUS DÉCIDEZ DE PRÉSENTER.** L'interprète et vous devez signer le formulaire lorsque vous avez fini (voir la section E - Déclaration du demandeur : déclaration B; et la section F - Déclaration de l'interprète).

PRÉSENTATION D'UNE DEMANDE DE DÉCLARATION DE DISPENSE

Veuillez transmettre votre Demande de déclaration de dispense visée au paragraphe 42.1(1) de la *Loi sur l'immigration et la protection des réfugiés* (LIPR), dûment remplie et signée, ainsi que tout document connexe, à l'Unité de la dispense ministérielle (UDM) de l'ASFC, par la poste, à l'adresse suivante :

Unité de la dispense ministérielle
Agence des services frontaliers du Canada
100, rue Metcalfe, 10^e étage
Ottawa (Ontario) Canada K1A 0L8

ou par courriel, à l'adresse suivante :

Ministerial_Relief.Exemptions_Ministerielles@cbsa-asfc.gc.ca

Si vos renseignements changent ou si vous souhaitez en ajouter, vous devez en informer l'UDM de l'ASFC. Encerclez ou soulignez les renseignements que vous avez changés ou ajoutés dans votre demande de déclaration de dispense, signez et datez les pages comportant des changements et envoyez celles-ci (l'original et non une copie de celles-ci) à l'UDM de l'ASFC, à l'adresse susmentionnée.

Pour en savoir davantage, veuillez consulter le *Guide de demande de déclaration de dispense visée au paragraphe 42.1(1) de la Loi sur l'immigration et la protection des réfugiés*.



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Voyageurs

Guide de demande de déclaration de dispense visée au paragraphe 42.1(1) de la *Loi sur l'immigration et la protection des réfugiés*

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En quoi consiste une demande de déclaration de dispense (« dispense ministérielle »)?

Aux termes du paragraphe 42.1(1) de la *Loi sur l'immigration et la protection des réfugiés* (LIPR) et de ses règlements, un étranger peut présenter une demande de déclaration de dispense – communément appelée « dispense ministérielle » – s'ils ont été interdits de territoire au Canada aux termes de l'article 34 (sécurité), des alinéas 35(1)b) ou c) (atteinte aux droits humains ou internationaux) ou du paragraphe 37(1) (criminalité organisée) de la LIPR, donnant lieu à la prise d'une mesure de renvoi à leur égard par la Commission de l'immigration et du statut de réfugié ou le refus d'une demande de résidence temporaire ou permanente par Immigration, Réfugiés et Citoyenneté Canada (IRCC) au Canada ou à l'étranger.

L'Unité de la dispense ministérielle (UDM) de l'Agence des services frontaliers du Canada (ASFC) reçoit et traite les demandes de dispense ministérielle, y compris la rédaction de recommandations à l'intention du ministre de la Sécurité publique et de la Protection civile (« le ministre ») sur la pertinence d'accorder ou de refuser la dispense. Toutefois, les décisions relèvent exclusivement du ministre et ne peuvent être déléguées à des fonctionnaires. La dispense ministérielle n'a pas pour but de réviser une conclusion d'interdiction de territoire, et elle est l'exercice d'un pouvoir discrétionnaire qui doit être exceptionnel.

Les étrangers interdits de territoire au Canada aux termes de l'alinéa 35(1)a) de la LIPR pour la perpétration d'un génocide, de crimes de guerre ou de crimes contre l'humanité ou pour complicité dans la perpétration de tels crimes ne peuvent demander de dispense ministérielle.

Comment présente-t-on une demande de dispense ministérielle?

Une demande de dispense ministérielle doit être faite à l'aide du formulaire intitulé Demande de déclaration de dispense (BSF766), qu'il est possible d'obtenir sans frais dans le site Web externe de l'ASFC. Les renseignements soumis dans la demande et les documents annexés doivent être fournis en anglais ou en français. Les demandeurs doivent préciser, sur leur demande, leur langue officielle de correspondance préférée; c'est aussi dans cette langue que l'ASFC rédigera sa recommandation à l'intention du ministre.

Une demande de dispense ne peut être soumise qu'une fois que tous les droits de contrôle judiciaire du refus de l'immigration ou de la mesure de renvoi ont expiré ou ont été épuisés. Les demandes ne remplissant pas ces critères et les autres critères d'admissibilité, décrits à l'article 24.1 du *Règlement sur l'immigration et la protection des réfugiés* (RIPR) ou qui ne fournissent pas les règlements obligatoires précisés au paragraphe 24.2(1) du RIPR seront refusées et renvoyées au demandeur sans être traitées.

- ❶ Les demandes de dispense ministérielle et tous les documents ou correspondance subséquente se rapportant à une demande de dispense ministérielle devraient être envoyées à l'UDM de l'ASFC à l'adresse ci-dessous :

Unité de la dispense ministérielle
Agence des services frontaliers du Canada
100, rue Metcalfe, 10^e étage
Ottawa (Ontario) K1A 0L8

ou par courriel à :

Ministerial_Relief.Exemptions_Ministerielles@cbsa-asfc.gc.ca

Pour les étrangers qui se trouvent à l'extérieur du Canada et qui n'ont pas de représentant agissant en leur nom au Canada, les bureaux des visas continueront d'agir, dans la plupart des cas, comme un agent de liaison entre le demandeur et l'UDM de l'ASFC. Bien que ces personnes puissent présenter des demandes et des observations au bureau des visas responsable ou directement à l'ASFC, les bureaux des visas auront la responsabilité principale de divulguer l'ébauche des recommandations aux demandeurs et de communiquer les décisions prises par le ministre.

Veuillez noter qu'il peut arriver que l'UDM de l'ASFC communique directement avec un demandeur. En accord avec l'article 24.5 du RIPR, il incombe au demandeur d'informer sans délai l'UDM de l'ASFC de tout changement d'adresse. Le défaut de répondre à la correspondance peut entraîner la fermeture de la demande.

Le demandeur a-t-il besoin d'un représentant?

⚠️ Nota :

Il n'est pas obligatoire de recourir aux services d'un représentant en immigration aux fins d'une demande de dispense ministérielle; c'est laissé à la discrétion du demandeur.

Personne ne peut garantir que le ministre rendra une déclaration de dispense dans le dossier d'un demandeur.

Si un demandeur choisit de recourir aux services d'un représentant, une copie d'un formulaire *Recours aux services d'un représentant (IMM5476)* signé (disponible sans frais dans le site Web d'IRCC) doit être transmise à l'UDM afin d'autoriser le représentant retenu à présenter des observations et à recevoir des renseignements au nom du demandeur.

Un demandeur peut n'avoir qu'un représentant à la fois. L'UDM de l'ASFC doit être immédiatement informée de toute modification touchant la représentation d'un demandeur, y compris l'annulation, ou un changement d'adresse, par l'envoi d'un nouveau formulaire *Recours aux services d'un représentant* rempli et signé. L'ASFC ne peut communiquer de détails personnels à une personne qui n'a pas été autorisée à agir au nom du demandeur. Les observations ou la correspondance provenant d'une personne non autorisée par rapport à un demandeur ne seront pas acceptées ni prises en compte en l'absence d'un formulaire *Recours aux services d'un représentant* rempli et dûment signé.

Au titre de la LIPR, commet une infraction toute personne non autorisée en vertu de la Loi qui, sciemment, de façon directe ou indirecte, représente ou conseille une personne, moyennant rétribution, relativement à une demande ou à une instance prévue par la présente loi, ou offre de le faire. La rétribution peut être pécuniaire ou représenter toute autre forme de rémunération ou de récompense.

Qu'arrive-t-il après la présentation d'une demande de dispense ministérielle?

Quand l'UDM de l'ASFC a reçu une demande et l'a jugée admissible et complète, la demande de dispense ministérielle sera placée dans l'inventaire des dossiers et traitée selon l'année de sa réception. L'UDM examinera la demande et les observations écrites et fera une recommandation au ministre sur la pertinence d'accorder ou de refuser la dispense. La recommandation de l'ASFC sera communiquée au demandeur avant qu'elle

soit transmise au ministre aux fins de décision. Cette étape fournira au demandeur la possibilité d'examiner la recommandation, de répondre aux préoccupations soulevées par l'ASFC et de présenter d'autres observations, s'il le désire.

Après avoir examiné la dispense ministérielle et la recommandation de l'ASFC, le ministre peut déclarer que les faits décrits dans les dispositions de la LIPR susmentionnées relatives à l'interdiction de territoire n'emportent pas interdiction de territoire si le demandeur convainc le ministre que dans son cas, la dispense n'est pas contraire à l'intérêt national. La dispense ministérielle n'est pas une forme différente d'examen de considérations humanitaires. Le paragraphe 42.1(3) de la LIPR stipule que, pour décider s'il fait la déclaration, le ministre ne tient compte que de considérations relatives à la sécurité nationale et à la sécurité publique sans toutefois limiter son analyse au fait que le demandeur constitue ou non un danger pour le public ou la sécurité du Canada. Le fardeau de la preuve pour établir que la dispense est justifiée incombe au demandeur. Il n'incombe pas au ministre de prouver le contraire.

Quel type de renseignements le demandeur devrait-il fournir dans ses observations?

Le formulaire de demande de dispense ministérielle (Demande de déclaration de dispense BSF766) vise à présenter un ensemble précis de renseignements sur les circonstances du cas du demandeur qui peuvent aider le ministre à prendre la décision d'accorder ou de refuser la dispense d'une conclusion d'interdiction de territoire. Toutefois, le demandeur peut soumettre tout renseignement supplémentaire qu'il désire dans le but de convaincre le ministre que, dans son cas, la dispense n'est pas contraire à l'intérêt national.

Bien que le demandeur ne soit pas limité quant au type de renseignements qu'il peut soumettre, la liste d'exemples non exhaustive ci-dessous peut servir de guide en ce qui concerne les types d'observations qui peuvent être soumises à l'attention du ministre. Cette liste ne devrait pas être interprétée comme étant obligatoire ou prescriptive. Chaque demande est évaluée en fonction de son bien-fondé et des faits propres au dossier.

1. Interdiction de territoire en application des alinéas 34(1)a), b), b.1), c), e) et 37(1)a) ou b) de la LIPR

Si l'interdiction de territoire du demandeur est liée au fait qu'il est l'auteur ou l'instigateur d'un ou de plusieurs actes précis, qu'il s'agisse de terrorisme, de violence susceptible de mettre en danger la vie ou la sécurité d'autrui au Canada, de subversion, d'espionnage ou de criminalité organisée (y compris la criminalité transnationale), le demandeur pourrait souhaiter traiter des facteurs ci-dessous, s'ils s'appliquent dans son cas.

- Décrivez en détail les circonstances dans lesquelles vous vous êtes livré directement ou indirectement ou avez été l'instigateur d'un ou de plusieurs actes de terrorisme, de violence, de subversion, d'espionnage ou de criminalité organisée ou transnationale. Veuillez fournir les dates et les endroits et soyez aussi précis que possible concernant les incidents.
- Quand et pendant combien de temps avez-vous été l'auteur ou l'instigateur de ces actes ou d'autres actes illicites, s'il y a lieu?
- Décrivez en détail tous les événements pertinents survenus avant, pendant ET après la période où vous avez été l'auteur ou l'instigateur d'un ou de plusieurs actes particuliers.
- Veuillez décrire en détail votre rôle précis et, s'il y a lieu, vos tâches régulières (veuillez fournir les dates, les endroits et l'incidence de vos actes).
- Expliquez votre justification ou vos raisons de devenir l'auteur ou l'instigateur de tels actes et, si vous avez cessé depuis vos activités, veuillez décrire la ou les motivations derrière cette décision.
- Relevez-vous d'une autre personne et, si OUI, de qui relevez-vous par rapport à votre participation à l'acte ou aux actes (y compris les postes ou titres de vos supérieurs directs au sein d'une hiérarchie organisationnelle, s'il y a lieu)?
- Quels avantages avez-vous acquis (financièrement, socialement, par l'exercice d'influence ou de pouvoir, ou de toute autre façon) du fait d'avoir été l'auteur ou l'instigateur de telles activités? Veuillez fournir des exemples concrets.
- Décrivez en détail la nature de toute activité continue ou actuelle relative au type d'acte ou d'actes pour lesquels vous avez été déclaré interdit de territoire au Canada.
- Évitez les trous dans le fil de votre récit et joignez les documents disponibles à l'appui de vos affirmations.

2. Interdiction de territoire en application de l'alinéa 34(1)d) de la LIPR

Si l'interdiction de territoire du demandeur est liée au fait qu'il constitue un danger pour la sécurité du Canada, le demandeur pourrait souhaiter traiter des facteurs ci-dessous, s'ils s'appliquent dans son cas.

- Veuillez décrire en détail les activités pour lesquelles vous avez été interdit de territoire.
- Quelles activités avez-vous promues, planifiées, facilitées, orchestrées ou commises? Soyez précis.
- Quand et pendant combien de temps avez-vous été impliqué dans ces actes? Êtes-vous encore impliqué dans de tels actes ou le serez-vous encore?

- Veuillez décrire en détail tous les événements pertinents avant, durant ET après la période où vous avez promu, planifié, facilité, orchestré, exécuté ou instigué un ou des actes particuliers qui ont entraîné votre interdiction de territoire.
- Veuillez décrire en détail vos tâches et vos rôles précis (fournir les dates, les endroits et l'incidence de votre acte ou de vos actes).
- Veuillez expliquer la justification ou les raisons de votre participation à ces actes et, si vous avez cessé depuis vos activités, veuillez décrire la ou les motivations derrière votre décision d'arrêter.
- Relevez-vous d'une autre personne et, si OUI, de qui relevez-vous par rapport à votre participation à ces activités?
- Quels avantages avez-vous acquis (financièrement, socialement, par l'exercice d'influence ou de pouvoir, ou de toute autre façon) de votre participation à ces activités? Veuillez fournir des exemples concrets.
- Décrivez en détail la nature de toute activité continue ou actuelle relative au type d'acte ou d'actes pour lesquels vous avez été déclaré interdit de territoire au Canada.
- Évitez les trous dans le fil de votre récit et joignez les documents disponibles à l'appui de vos affirmations.

3. Interdiction de territoire en application des alinéas 34(1)f) ou 37(1)a) de la LIPR

Si l'interdiction de territoire du demandeur est liée à son affiliation à une organisation ou à un groupe particulier, le demandeur pourrait souhaiter traiter des facteurs ci-dessous, s'ils s'appliquent dans son cas.

- Quand et pendant combien de temps avez-vous été membre de l'organisation?
- Veuillez expliquer pourquoi vous avez adhéré à cette organisation et vous en êtes resté membre.
- Êtiez-vous au courant, pendant que vous serviez le groupe, de son recours à des méthodes et des activités violentes, terroristes, subversives, criminelles et liées à l'espionnage ou d'autres natures pour réaliser ses objectifs?
- Veuillez expliquer en détail les circonstances dans lesquelles vous avez participé aux activités de cette nature de l'organisation ou y avez contribué.
- Veuillez décrire en détail votre nouveau poste officiel au sein de l'organisation (s'il y a lieu), vos tâches et vos rôles précis ainsi que les activités auxquelles vous avez participé pour le compte de l'organisation dont vous étiez/êtes membre (fournir les dates, les endroits et l'incidence de vos activités).
- De qui releviez-vous durant votre présence au sein de l'organisation (veuillez inclure les postes ou les titres de vos supérieurs directs au sein de la hiérarchie)

organisationnelle)? Vous pourriez fournir une grille ou un diagramme montrant votre position au sein du groupe.

- Veuillez décrire en détail la nature et l'étendue du pouvoir ou de l'influence que vous avez exercé pendant que vous avez servi l'organisation. Veuillez fournir des exemples concrets.
- Quels avantages avez-vous acquis (financièrement, socialement, par l'exercice d'influence ou de pouvoir, ou de toute autre façon) de votre rôle au sein de l'organisation? Veuillez fournir des exemples concrets.
- Décrivez en détail la nature de toute activité continue ou actuelle relative à votre rôle au sein de l'organisation. Par ailleurs, si vous avez mis fin à votre participation au groupe, veuillez fournir les détails des circonstances de votre désaffiliation.
- Veuillez expliquer votre point de vue actuel à l'égard de l'organisation que vous avez servie et à l'égard de ses méthodes, de ses buts et de ses objectifs.
- Évitez les trous dans le fil de votre récit et joignez les documents disponibles à l'appui de vos affirmations.

4. Interdiction de territoire en application de l'alinéa 35(1)b) de la LIPR

Si l'interdiction de territoire du demandeur est liée au fait d'avoir été un haut fonctionnaire d'un régime désigné par le gouvernement du Canada pour s'être livré à des actes de génocide, de crimes de guerre ou de crimes contre l'humanité, le demandeur pourrait souhaiter traiter les facteurs ci-dessous, s'ils s'appliquent dans son cas.

- Quand et pendant combien de temps avez-vous été un haut fonctionnaire d'un régime désigné?
- Veuillez expliquer ce qui vous a poussé à faire partie du régime et d'y rester.
- Êtiez-vous au courant, pendant que vous serviez le régime, qu'il recourait à des méthodes violentes ou des atrocités comme les violations des droits humains ou internationaux commises par ce gouvernement?
- Veuillez expliquer en détail les circonstances dans lesquelles vous avez participé à de telles activités du régime ou vous les avez appuyées.
- Veuillez décrire en détail votre ou vos postes (y compris les noms des unités, sections, divisions, directions générales, ministères, etc.) et vos tâches et rôles précis, ainsi que les activités auxquelles vous avez participé pour le compte du gouvernement désigné (fournir les dates, les endroits et l'incidence de vos activités sur les opérations ministérielles ou gouvernementales).
- De qui releviez-vous durant votre participation au régime désigné (fournir les postes, titres et grades de vos supérieurs directs au sein de la hiérarchie organisationnelle,

ministérielle ou gouvernementale)? Vous pourriez fournir une grille ou un diagramme montrant votre position au sein du groupe.

- Veuillez décrire en détail la nature et l'étendue du pouvoir ou de l'influence que vous exercez pendant que vous serviez le régime en tant que haut fonctionnaire. Veuillez fournir des exemples concrets.
- Quels avantages avez-vous acquis (financièrement, socialement, par l'exercice d'influence ou de pouvoir, ou de toute autre façon) de votre rôle au sein du régime? Veuillez fournir des exemples concrets.
- Décrivez en détail la nature de toute activité continue ou actuelle relative à votre rôle au sein du régime, ou si vous avez mis fin à votre rôle au sein de l'entité désignée, veuillez préciser les circonstances de votre désaffiliation.
- Veuillez expliquer votre point de vue actuel à l'égard du régime que vous avez servi et à l'égard de ses méthodes, de ses buts et de ses objectifs.
- Évitez les trous dans le fil de votre récit et joignez les documents disponibles à l'appui de vos affirmations.

5. Interdiction de territoire en application de l'alinéa 35(1)c) de la LIPR

Si l'interdiction de territoire du demandeur est liée au fait d'être une personne dont l'entrée ou le séjour au Canada est limité au titre d'une décision, d'une résolution ou d'une mesure d'une organisation internationale d'États ou une association d'États (aussi connue comme une sanction), le demandeur pourrait souhaiter :

- Fournir des renseignements et des documents concernant les particularités de la ou des sanctions imposées, et pourquoi ou comment vous en avez été l'objet.
- Fournir des renseignements et des documents qui, selon vous, convaincront le ministre que votre interdiction de territoire devrait être écartée par une déclaration de dispense.

6. Toutes les interdictions de territoire

Tous les demandeurs pourraient souhaiter traiter des considérations générales ci-dessous, s'il y a lieu.

- Veuillez décrire les circonstances dans lesquelles vous avez utilisé, planifié ou recommandé le recours à la lutte armée, à la violence ou à des actes criminels pour réaliser des objectifs politiques, religieux, sociaux, organisationnels ou personnels. Soyez précis (fournir les dates, les endroits, l'incidence de vos activités, etc.).

- Veuillez expliquer votre point de vue actuel sur le recours à des méthodes ou des tactiques violentes, terroristes, subversives, criminelles ou autres pour réaliser des objectifs organisationnels, politiques ou personnels.
- Traitez des circonstances dans lesquelles vous avez été arrêté, détenu ou emprisonné et inclure les dates (non limitées à des activités, des accusations ou des condamnations criminelles). Soyez précis.
- Traitez des circonstances dans lesquelles vous avez été accusé(e), poursuivi(e) ou déclaré(e) coupable comme auteur(e) ou complice d'un crime ou d'une infraction ou avez fait l'objet de poursuites au criminel dans un pays.
- Selon la LIPR, pour déterminer si la dispense ministérielle serait contraire à l'intérêt national, le ministre ne peut tenir compte que de considérations relatives à la sécurité nationale et publique. Vous pourriez souhaiter attirer l'attention du ministre sur des facteurs personnels, ou des circonstances atténuantes, concernant l'intérêt national qui, selon vous, pourraient aider à convaincre le ministre que la dispense est justifiée.

Combien faut-il de temps pour que le ministre se prononce sur la demande de dispense ministérielle?

Comme il s'agit d'une décision ne pouvant être déléguée que le ministre doit rendre personnellement, la dispense ministérielle nécessite souvent un examen approfondi d'une quantité volumineuse de renseignements et d'observations, implique une évaluation détaillée de nombreux facteurs et nécessite l'apport de partenaires compétents ainsi qu'un examen de la part de hauts fonctionnaires. Vu la complexité du processus, il est impossible de prévoir un échéancier exact dans lequel un demandeur peut s'attendre à ce que le ministre rende une décision.

Qu'arrive-t-il au statut du demandeur par suite d'une déclaration de dispense?

Une déclaration de dispense ne confère pas automatiquement un statut aux termes de la LIPR.

Si le ministre refuse d'octroyer la dispense à un demandeur, celui-ci ne sera pas dispensé de son interdiction de territoire en application de la ou des dispositions de la LIPR par rapport auxquelles il a demandé une déclaration ministérielle.

Par suite de son évaluation du dossier du demandeur, si le ministre est convaincu qu'il n'est pas contraire à l'intérêt national d'écartier l'interdiction de territoire du demandeur, il peut rendre une déclaration de dispense. Celle-ci éliminera l'interdiction de territoire comme obstacle pour obtenir un visa d'immigration ou pour régulariser le statut du demandeur au Canada par l'entremise d'IRCC, s'il le désire, pourvu qu'il n'existe ou ne soit établie par la suite aucune autre interdiction de territoire à l'endroit du demandeur.

Date de modification :

2017-03-22

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Application for a Declaration of Relief under Subsection 42.1(1) of the Immigration and Refugee Protection Act (IRPA)

Note: Print or type the details of your application in the spaces provided below. YOU MUST RESPOND FULLY TO ALL QUESTIONS. IF YOU NEED MORE SPACE, USE ADDITIONAL SHEETS OF PAPER. On each additional sheet, print your name and Canadian immigration identification number in the top right-hand corner, sign your initials below your name, and write the page number in the bottom right-hand corner. Also, identify the section and question number for each answer for which you are providing additional information. This application form is produced by the Canada Border Services Agency and is available free of charge at www.cbsa.gc.ca.

Section A – Applicant Information

Personal Information

1 Canadian immigration ID number (e.g., UCI or other immigration identifier)

2 Surname(s)/Family name(s) Given name(s)

3 Other name(s) - List below any other names you have used, if applicable

Nickname(s): _____

Maiden name: _____

Alias(es): _____

Other(s) (please explain, e.g., legal change of name): _____

4 Date of birth (DD-MM-YYYY)

5 Gender

Male Female Other: _____

6 Town/city and country of birth

7 Citizenship/Nationality (country)	How citizenship/nationality was acquired (e.g., by birth, marriage, etc.)	Date citizenship/nationality was acquired (DD-MM-YYYY)	Present status

8 Language(s) spoken (include dialects)

9 Official language for correspondence - Select the official language that you would like the CBSA to use with you in correspondence, and in processing your application (including the drafting of a recommendation for Ministerial decision)

English French

10 Current marital status

<input type="checkbox"/> Single	<input type="checkbox"/> Common-Law	<input type="checkbox"/> Married	<input type="checkbox"/> Legally Separated
<input type="checkbox"/> Annulled Marriage	<input type="checkbox"/> Divorced	<input type="checkbox"/> Widowed	<input type="checkbox"/> Unknown

11 If you are married or in a common-law relationship, provide the date on which you were married or entered into the common-law relationship (DD-MM-YYYY)

Provide the name and date of birth of your current spouse/common-law partner

12 Surname(s)/Family name(s)	Given name(s)	13 Date of birth (DD-MM-YYYY)
------------------------------	---------------	-------------------------------

14 Have you previously been married or in a common-law relationship? Yes No

If YES, provide the following details for your previous spouse(s)/common-law partner(s)

15 Surname(s)/Family name(s)	Given name(s)	16 Date of birth (DD-MM-YYYY)
------------------------------	---------------	-------------------------------

17 Type of relationship (e.g., married or common-law)

18 In a relationship from (DD-MM-YYYY)	To (DD-MM-YYYY)
--	-----------------

19 Current status of relationship (e.g., legally separated, annulled marriage, divorced, or widowed)

Current Contact Information <small>(YOU MUST IMMEDIATELY NOTIFY THE MINISTERIAL RECEIPT UNIT OF ANY CHANGE IN THIS ADDRESS TO AVOID YOUR APPLICATION BEING CLOSED)</small>				
20 Street No.	Street Name			
P.O. Box	Apt./Unit	City/Town		
District	Province/State		Postal Code/Zip Code	
Country	Telephone No.		<input type="checkbox"/> Residence	<input type="checkbox"/> Cellular
Secondary Telephone No.	<input type="checkbox"/> Residence	<input type="checkbox"/> Cellular	<input type="checkbox"/> Business	E-mail Address
Mailing Address (different from above) <small>(YOU MUST IMMEDIATELY NOTIFY THE MINISTERIAL RECEIPT UNIT OF ANY CHANGE IN THIS ADDRESS TO AVOID YOUR APPLICATION BEING CLOSED)</small>				
21 Street No.	Street Name			
P.O. Box	Apt./Unit	City/Town		
District	Province/State		Postal Code/Zip Code	
Country				
Section B – Inadmissibility				
Inadmissibility (ies) against which you are seeking a Declaration of Relief				
<p>1 Check all boxes that apply and fill in data as appropriate. Under "Inadmissibility grounds", provide specific details, for example: membership in an organization (indicate whether the group was involved with organized criminality, terrorism, espionage, subversion, etc.); being a senior official in a designated regime; engagement in and/or instigation of an act or acts (indicate whether you were engaged in terrorism, espionage, subversion, violence, organized criminality and/or transnational crime (e.g., people smuggling, trafficking in persons, and/or money laundering, etc.)); being a danger to the security of Canada; and/or being a person whose entry into or stay in Canada is restricted pursuant to a relevant decision/resolution/measure (also known as a sanction) of an international organization of states or association of states, of which Canada is a member. Where applicable, make sure to name the organization(s), identify the designated regime(s), and/or specify the type of act(s) you committed that resulted in your inadmissibility.</p>				
IRPA subsection	IRPA paragraph	Inadmissibility grounds	Date found inadmissible (DD-MM-YYYY)	City and country where found inadmissible
34(1) <input type="checkbox"/>	(a) <input type="checkbox"/>			
	(b) <input type="checkbox"/>			
	(b.1) <input type="checkbox"/>			
	(c) <input type="checkbox"/>			
	(d) <input type="checkbox"/>			
	(e) <input type="checkbox"/>			
	(f) <input type="checkbox"/>			
35(1) <input type="checkbox"/>	(b) <input type="checkbox"/>			
	(c) <input type="checkbox"/>			
37(1) <input type="checkbox"/>	(a) <input type="checkbox"/>			
	(b) <input type="checkbox"/>			
I was found to be inadmissible under subsection 19(1) of the former <i>Immigration Act</i> (IA) on security, human or international rights violations, and/or organized criminality grounds <input type="checkbox"/>				
Specify provision(s)				

Circumstances of inadmissibility	
Check all boxes below that apply to the circumstances in which you were found inadmissible under the above-noted provisions. If available, attach a copy of the removal order, or inadmissibility or refusal decision.	
<input type="checkbox"/> 2	I was found inadmissible to Canada by the Immigration and Refugee Board and a removal order was issued <input type="checkbox"/>
<input type="checkbox"/> 3	I was refused Canadian temporary residence because there are reasonable grounds to believe I am inadmissible <input type="checkbox"/>
<input type="checkbox"/> 4	I was refused Canadian permanent residence because there are reasonable grounds to believe I am inadmissible <input type="checkbox"/>
<input type="checkbox"/> 5	Is your inadmissibility currently under litigation or do you intend to litigate your inadmissibility? <input type="checkbox"/> Yes <input type="checkbox"/> No
Other inadmissibility (es)	
<input type="checkbox"/> 6	Have you been reported to be or found to be inadmissible to Canada under any other section of the IRPA / the former IA than those listed above? <input type="checkbox"/> Yes <input type="checkbox"/> No
<p>Note: Inadmissibilities not related to security, human or international rights violations, and/or organized criminality grounds cannot be remedied by a declaration of relief under subsection 42.1(1) of the IRPA; however, this information may be considered in the context of the Minister's assessment of national interest factors.</p> <p>If YES, provide details of the inadmissibility, including the specific inadmissibility grounds, the date on which you were reported or found to be inadmissible, and the city and country where the report was written/inadmissibility decision was made. Identify the Immigration, Refugees and Citizenship Canada (IRCC), Immigration and Refugee Board (IRB), Canada Border Services Agency (CBSA) or Canadian visa office where the report was written/decision was rendered. Attach a copy of the report, removal order or inadmissibility decision, if available.</p>	
Additional Information	
Respond to the following questions by checking all boxes that apply.	
<input type="checkbox"/> 7	Have you ever been refused refugee status in, or an immigrant or visitor visa to, Canada or any other country? <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> 8	Have you ever been refused admission to, or ordered to leave, Canada or any other country? <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> 9	Have you ever been sought, arrested, detained or put in jail under any circumstances? (This question is not limited to criminal activity) <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> 10	Have you ever used, planned or advocated the use of armed struggle or violence to reach political, religious or social objectives? <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> 11	If you were found inadmissible for involvement in a group, organization, military, paramilitary, or designated government or regime, was your involvement voluntary? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<input type="checkbox"/> 12(a)	If you were associated with a military, paramilitary, designated government or regime, were you aware of its involvement in armed hostilities? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<input type="checkbox"/> 12(b)	If you were associated with a military, paramilitary, designated government or regime, did you participate in or provide support for its involvement in armed hostilities? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<input type="checkbox"/> 13(a)	Have you ever been associated with a group or organization that used, uses, or advocates the use of armed struggle or violence to reach political, religious or social objectives? <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> 13(b)	If YES, were you aware, during your association, of the group's or organization's involvement in violent activities? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<input type="checkbox"/> 14(a)	Have you ever engaged in an act of espionage, subversion, terrorism, organized crime and/or transnational crime (e.g., human smuggling, human trafficking, money laundering, etc.)? <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> 14(b)	If YES, was your involvement voluntary? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<input type="checkbox"/> 15	Have you ever advocated or been involved in an act of genocide or in the commission of a war crime or crime against humanity, such as: willful killing; torture; attacks; deportation; enslavement; starvation; unlawful destruction of property or other inhumane acts against civilians or prisoners of war, whether in peace or war? <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> 16	Are you a person whose entry into or stay in Canada is restricted pursuant to a relevant decision/resolution/measure (also known as a sanction) of an international organization of states or association of states, of which Canada is a member? <input type="checkbox"/> Yes <input type="checkbox"/> No

R-24.1(c)
+
R-24.2(d)(g)
R-24.1(c)(2)

If the answer to any of the above questions is YES, provide details here (indicate the question number), and include with your application form any available supporting documentation.

Section C – Background Information

Formal Education and Training

- 1 Starting with the most recent, list all formal education and training. Include all elementary and secondary schools, and post-secondary, technical and vocational institutions attended, regardless of whether you completed the program or obtained a diploma, degree or certificate.

From Month Year	To Month Year	Name of institution and field of study	Town, city, district, region, state/province, country	Level, degree, diploma or certificate obtained

Employment and Volunteer Work

- 2 Starting with the most recent, list all employment, including full-time, part-time, temporary and self-employment, and volunteer work from the age of 16 to present. DO NOT LEAVE ANY GAPS IN TIME. If you were not working, provide information on what you were doing (e.g., unemployed, studying, travelling, retired, volunteering, in detention, etc.)

From Month Year	To Month Year	Occupation/Job Title	Employer/company/organization name	Town, city, district, region, state/province, country

Duties/Responsibilities

From Month Year	To Month Year	Occupation/Job Title	Employer/company/organization name	Town, city, district, region, state/province, country

Duties/Responsibilities

From Month Year	To Month Year	Occupation/Job Title	Employer/company/ organization name	Town, city, district, region, state/province, country
Duties/Responsibilities				
<p style="text-align: center;">.24.26(1)(e)</p>				
From Month Year	To Month Year	Occupation/Job Title	Employer/company/ organization name	Town, city, district, region, state/province, country
Duties/Responsibilities				
Membership in and Association with Organization(s)				
<p>3 Starting with the most recent, list all organizations in which you have participated, or of which you were (or still are) a member, with which you were (or still are) associated, and/or which you supported (or are still supporting). Under "Type of organization", identify the type of group (e.g., political, social, youth, student, etc.) or vocational organization (e.g., trade union, professional associations, etc.). Make sure to list any applicable wings, factions, splinter groups, etc., to which you belong(ed), with which you associate(d) or which you support(ed). Do not use abbreviations.</p>				
<p>I have never belonged to, participated in, associated with, contributed to, assisted or supported any organization, financially or otherwise. <input type="checkbox"/></p>				
From Month Year	To Month Year	Name of organization	Type of organization	Town, city, district, region, state/province, country
Title(s), role(s) and/or position(s) held Activities/Duties/Responsibilities				
<p style="text-align: center;">.24.26(1)(e)</p>				
From Month Year	To Month Year	Name of organization	Type of organization	Town, city, district, region, state/province, country
Title(s), role(s) and/or position(s) held Activities/Duties/Responsibilities				

From	To	Name of organization	Type of organization	Town, city, district, region, state/province, country
Month Year	Month Year			
Title(s), role(s) and/or position(s) held		Activities/Duties/Responsibilities		
From	To	Name of organization	Type of organization	Town, city, district, region, state/province, country
Month Year	Month Year			
Title(s), role(s) and/or position(s) held		Activities/Duties/Responsibilities		
Government Position(s) Held				
<input checked="" type="checkbox"/> Starting with the most recent, list all government position(s) held, such as office worker, civil servant, jail guard, judge, intelligence officer, etc. Do not use abbreviations.				
<input type="checkbox"/> I have never held a government position.				
From	To	Level of jurisdiction (e.g., national, regional, municipal)	Department/Branch	Town, city, district, region, state/province, country
Month Year	Month Year			
Title(s), role(s) and/or position(s) held		Duties/Responsibilities		
From	To	Level of jurisdiction (e.g., national, regional, municipal)	Department/Branch	Town, city, district, region, state/province, country
Month Year	Month Year			
Title(s), role(s) and/or position(s) held		Duties/Responsibilities		

From	To	Level of jurisdiction (e.g., national, regional, municipal)	Department/Branch	Town, city, district, region, state/province, country
Month Year	Month Year			
Title(s), role(s) and/or position(s) held		Duties/Responsibilities		
<p>5 If any of the government positions you held involved intelligence gathering and/or analysis, indicate which position(s), and provide details of your activities here:</p>				
<p>Military, Paramilitary and/or Police Service</p> <p>6 Have you performed ANY type of military (e.g., armed forces, militia, military police, territorial defense, etc.), paramilitary or police service? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If YES, complete the following table for all service, whether voluntary or mandatory (required to serve, e.g. obligatory national service), regular or reserve, full- or part-time, in any country.</p> <p>7 Type of service: military (be specific), paramilitary or police 8 Name of organization</p> <p>9 Nature of participation <input type="checkbox"/> Voluntary <input type="checkbox"/> Mandatory</p> <p>10 Served from (DD-MM-YYYY) Served to (DD-MM-YYYY)</p> <p>11 Your title(s) and rank(s) at the start and conclusion of your service</p> <p>12 Awards, medals and commendations received (include date(s))</p> <p>13 Disciplinary measures against you (e.g., fines, sentence, jail, court martial, dishonourable discharge, etc.). Include date(s)</p> <p>14 Country(ies) in which service was performed</p>				

15 Describe your role(s), duty(ies) and responsibility(ies) (e.g., guard, border officer, police constable, detective, infantryperson, artillery, military police, radio operator, special forces, intelligence officer, interrogation, etc.). Identify all ranks/positions and corresponding dates of promotion. List all locations of service (bases/ town/ cities/ areas and country), and the associated: dates; branches and units in which you served; the number of people you supervised; the name(s) and rank(s) of your immediate supervising officer, your unit/regimental commander, and the operational group/corps commander:	
16 Type of service: military (be specific), paramilitary or police 17 Name of organization	
18 Nature of participation <input type="checkbox"/> Voluntary <input type="checkbox"/> Mandatory	
19 Served from (DD-MM-YYYY)	Served to (DD-MM-YYYY)
20 Your title(s) and rank(s) at the start and conclusion of your service	
21 Awards, medals and commendations received (include date(s))	
22 Disciplinary measures against you (e.g., fines, sentence, jail, court martial, dishonourable discharge, etc.). Include date(s)	
23 Country(ies) in which service was performed	
24 Describe your role(s), duty(ies) and responsibility(ies) (e.g., guard, border officer, police constable, detective, infantryperson, artillery, military police, radio operator, special forces, intelligence officer, interrogation, etc.). Identify all ranks/positions and corresponding dates of promotion. List all locations of service (bases/ town/ cities/ areas and country), and the associated: dates; branches and units in which you served; the number of people you supervised; the name(s) and rank(s) of your immediate supervising officer, your unit/regimental commander, and the operational group/corps commander:	

25 If MANDATORY was selected for any of the military, paramilitary, or police services you completed, provide details in the following table.				
Name of organization	Was there a minimum length of service required?	If YES, what was the minimum length of service required?	Was there a draft age (age when required to join)?	If YES, what was the draft age?
	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No	
26 Have you ever participated in, provided, or received any form of military, paramilitary or police training, whether or not you actually joined those services? This includes, but is not limited to: security training; leadership training; strategy and strategic planning; skills training (e.g., weapons, equipment, field craft, fitness, etc.); tactics, techniques, and procedures associated with a given role; support to operations (e.g., logistics, administration, food services, medical, etc.); specialized training (e.g., counter-insurgency, commando, intelligence, unarmed combat, interrogation, sniper, special or covert operations, etc.)? <input type="checkbox"/> Yes <input type="checkbox"/> No				
If YES, provide details (e.g., type, length, dates and locations of training, course content, name of instructing organization, etc.). Be specific:				
27 Did you participate, directly or indirectly, in any conflict(s), violence, exchange(s) of weapon fire, etc., during any of your military, paramilitary, or police service, or during your training? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, provide details of the incident(s) and the circumstances. Be specific:				
28 Have you ever witnessed or participated in ill treatment of prisoners or civilians, hostage-taking, etc.? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, provide details. Be specific:				
Criminal History <small>IMMEDIATELY NOTIFY THE MINISTERIAL RECORD UNIT OF ANY CHANGE IN CRIMINAL ACTIVITY / CHARGES AND/OR YOUR CRIMINAL RECORD</small>				
29 Have you ever committed/been party to or been arrested for, charged with, on trial for, or convicted of a crime or offence, or subject to any arrest warrants or criminal proceedings, in any country, including Canada? <input type="checkbox"/> Yes <input type="checkbox"/> No				
If YES, complete the following table, and attach any supporting records (e.g., charge sheet, criminal record, pardon or rehabilitation confirmation, etc.) if available. For "Offence type and code", describe the type of offence and list the applicable section number(s) and title(s) of the associated criminal/civil legislation(s) (e.g., "operating a vehicle while impaired (driving under the influence of alcohol or drugs /DUI), Canadian Criminal Code (CC) 253(1)(b)", "assault causing bodily harm, CC 267(b)", "receipt of stolen goods, 18 U.S. Code § 2315", etc.). List all offences and crimes, including those for which you were not charged.				
30 Crime/offence type and code (if applicable)				

31 Date of alleged crime(s) or offence(s) (DD-MM-YYYY)	32 Date charge(s) laid (DD-MM-YYYY)						
33 City and country where offence occurred/charges laid							
35 Details of disposition (identify the outcome of the charges (e.g., withdrawn, dismissed, acquittal, conviction, suspended or deferred sentence, guilty plea, absolute or conditional discharge, peace bond, probation order, etc.), and indicate which court rendered the disposition). If you were convicted, clearly identify your conviction:							
36 Were you sentenced?							
<input type="checkbox"/> Yes <input type="checkbox"/> No If YES, what was the sentence imposed?							
37 Date sentence served							
<table border="1" style="width: 100%; text-align: center;"> <tr> <td style="width: 50%;">From</td> <td style="width: 50%;">To</td> </tr> <tr> <td>Month</td> <td>Year</td> </tr> <tr> <td> </td> <td> </td> </tr> </table>		From	To	Month	Year		
From	To						
Month	Year						
38 Institution and location (city and country) where sentence was served							
39 Did you complete serving your full sentence?							
<input type="checkbox"/> Yes <input type="checkbox"/> No If NO, provide reason(s)/explanation (e.g., received credit for pre-trial time in custody, granted parole (released early but subject to supervision, restrictions and conditions), granted compassionate release, served two or more sentences simultaneously, etc.):							
40 Have you received a record suspension (pardon), had your record expunged or been deemed to be rehabilitated?							
<input type="checkbox"/> Yes <input type="checkbox"/> No If YES, provide details (include date(s) and pardoning/granting body(ies)), and attach supporting records if available.							
46 Details of disposition (identify the outcome of the charges (e.g., withdrawn, dismissed, acquittal, conviction, suspended or deferred sentence, guilty plea, absolute or conditional discharge, peace bond, probation order, etc.), and indicate which court rendered the disposition). If you were convicted, clearly identify your conviction:							

47 Were you sentenced?	<input type="checkbox"/> Yes <input type="checkbox"/> No																																	
If YES, what was the sentence imposed?																																		
48 Date sentence served		From	To																															
	Month	Year	Month	Year																														
49 Institution and location (city and country) where sentence was served																																		
50 Did you complete serving your full sentence?	<input type="checkbox"/> Yes <input type="checkbox"/> No																																	
If NO, provide reason(s)/explanation (e.g., received credit for pre-trial time in custody, granted parole (released early but subject to supervision, restrictions and conditions), granted compassionate release, served two or more sentences simultaneously, etc.):																																		
51 Have you received a record suspension (pardon), had your record expunged or been deemed to be rehabilitated?	<input type="checkbox"/> Yes <input type="checkbox"/> No																																	
If YES, provide details (include date(s) and pardoning/granting body(ies)), and attach supporting records if available.																																		
Countries of Previous Residence or International Travel																																		
52 Starting with the most recent, list all places in which you have resided, or to which you have travelled/visited internationally, from the age of 16 to present. DO NOT LEAVE ANY GAPS IN TIME. For "Status in country", choose one of the following options: citizen; permanent resident; visitor; worker; student; protected person; refugee claimant; foreign national; or other (if "other", explain). For "Purpose of travel", indicate the reasons for your travel (e.g., business, school, leisure, intending immigrant, asylum seeker, etc.).																																		
<table border="1"> <thead> <tr> <th></th> <th>From (DD-MM-YYYY)</th> <th>To (DD-MM-YYYY)</th> <th>City and country</th> <th>Status in country</th> <th>Purpose of travel</th> </tr> </thead> <tbody> <tr> <td>a)</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>b)</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>c)</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>d)</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>						From (DD-MM-YYYY)	To (DD-MM-YYYY)	City and country	Status in country	Purpose of travel	a)						b)						c)						d)					
	From (DD-MM-YYYY)	To (DD-MM-YYYY)	City and country	Status in country	Purpose of travel																													
a)																																		
b)																																		
c)																																		
d)																																		
53 If any of the above travel was related to, paid for, or conducted on behalf of any group(s), organization(s), military(ies), paramilitary(ies), or government(s), including those relating to your inadmissibility, indicate the applicable letter(s) from the table above and provide details (e.g., specific information about the nature and purpose of the trip, your activities, how and why the trip was subsidized and/or conducted on behalf of the entity, etc.):																																		

Section D - Appointment of Representative

You do not need to hire an immigration representative; it is your choice. No one can guarantee that the Minister of Public Safety and Emergency Preparedness will make a declaration of relief in your case.

A representative is someone who has provided advice or guidance to you prior to submitting your application, following the submission of your application, and/or someone who has your permission to conduct business on your behalf with the CBSA.

YOU MAY ONLY HAVE ONE REPRESENTATIVE AT A TIME PER APPLICATION.

The *Immigration and Refugee Protection Act* makes it an offence for any person who is not authorized under the Act to knowingly, directly or indirectly, represent or advise a person for consideration - or offer to do so - in connection with a proceeding or application under that Act. Consideration includes money or any other form of compensation or reward.

Are you using a representative with respect to your Application for a Declaration of Relief? Yes No

If YES, you must complete the *Use of a Representative* form (IMM 5476), available free of charge at www.cic.gc.ca. Include the completed form with your Application for a Declaration of Relief.

YOU MUST IMMEDIATELY ADVISE OF ANY CHANGE IN YOUR REPRESENTATION, INCLUDING CANCELLATION, OR A CHANGE OF ADDRESS, BY SUBMITTING A NEW, COMPLETED AND SIGNED IMM 5476 TO THE MINISTERIAL RELIEF UNIT.

R.10(z)
(c.1)-(c.4)

Section E - Applicant Declaration

If you DID NOT require the assistance of an interpreter to complete this form, you must complete DECLARATION A.

If you DID require the assistance of an interpreter to complete this form, you must complete DECLARATION B. Make sure that all the questions, answers and instructions in the form, including this one, are interpreted to you before you sign DECLARATION B.

DECLARATION A

I declare that I am able to read English and that I have fully read and fully understood the entire contents of this form and all attached documents. I declare that I have fully and truthfully answered all questions and provided all relevant information on this application form including, if applicable, any additional pages or documents. I understand that providing false or misleading information is a serious offence, could reflect negatively on my application, and may be grounds for my prosecution.

R.10(c2)(c1)

Signature of Applicant

Date (DD-MM-YYYY)

A parent or legal guardian must sign on behalf of applicants under 18 years of age:

Full Name of Parent or Legal Guardian (type or print)

Relationship to Applicant

Signature of Parent or Legal Guardian

Date (DD-MM-YYYY)

DECLARATION B

I declare that the entire contents of this form and all attached documents have been interpreted to me, and that I have fully understood the entire contents of this form and all attached documents. I declare that I have fully and truthfully answered all questions and provided all relevant information on this application form including, if applicable, any additional pages or documents. I understand that providing false or misleading information is a serious offence, could reflect negatively on my application, and may be grounds for my prosecution.

Signature of Applicant _____ Date (DD-MM-YYYY)

A parent or legal guardian must sign on behalf of applicants under 18 years of age:

R.10(z)(d)

Full Name of Parent or Legal Guardian (type or print) _____ Relationship to Applicant _____

Signature of Parent or Legal Guardian _____ Date (DD-MM-YYYY)

Section F - Interpreter Declaration

I, (print full name clearly) _____, hereby declare that I have accurately interpreted the entire contents of this form and all attached documents for the applicant from the English language to the _____ language (state dialect, if any).

R.10(z)(d)

I am proficient in both of these languages (and dialect, if any), and was able to communicate effectively with the applicant. The applicant has assured me that they have understood the entire contents of this form and all attached documents and the answers provided, as interpreted by me.

Signature of Interpreter _____ Date (DD-MM-YYYY)

Section G - Privacy Statement

The information you provide in this document is collected under the authority of the *Immigration and Refugee Protection Act (IRPA)* and the *Immigration and Refugee Protection Regulations (IRPR)*, for the purpose of processing your Application for a Declaration of Relief under subsection 42.1(1) of the IRPA. The information may be disclosed to Immigration, Refugees and Citizenship Canada; the Immigration and Refugee Board; the Canadian Security Intelligence Service; the Royal Canadian Mounted Police; the United States National Criminal Information Center; INTERPOL; and similar organizations to obtain information that will be used to help inform the Canada Border Services Agency's (CBSA) recommendation to the Minister of Public Safety and Emergency Preparedness on whether or not to make a declaration of relief.

Refusal to provide the requested information may result in processing delays or your application not being accepted for processing. Individuals have the right to access and to make corrections to their personal information under the *Privacy Act*. The information collected is described within *Info Source* under the Personal Information Bank CBSA PPU 1504, which is detailed within the *CBSA Info Source Chapter*. Should you have concerns about the CBSA's handling of your personal information, you have a right to file a complaint with the Privacy Commissioner of Canada.

Section H - General Information

Pursuant to subsection 42.1(1) of the *Immigration and Refugee Protection Act* (IRPA) and related regulations, you are eligible to apply for a declaration of relief (commonly referred to as "Ministerial relief") if you have been determined to be inadmissible to Canada under section 34 (security), paragraphs 35(1)(b) or (c) (human or international rights violations), and/or subsection 37(1) of the IRPA (organized criminality), resulting in a removal order being issued against you and/or your application for temporary or permanent residence being refused. You are also eligible to apply if you were found to be inadmissible to Canada under a corresponding provision of subsection 19(1) of the former *Immigration Act* (IA). Foreign nationals who are inadmissible under IRPA paragraph 35(1)(a) or the former IA paragraph 19(1)(f) (commission of genocide, war crimes or crimes against humanity) are not eligible for Ministerial relief. Relief applications may not be submitted until all rights of judicial review against the immigration refusal or removal order have expired or been exhausted. Applications which do not meet these requirements or which do not provide the mandatory information will be returned unprocessed.

The Minister of Public Safety and Emergency Preparedness (the Minister) may declare that the matters referred to in the aforementioned provisions of the IRPA do not constitute inadmissibility in your case if you satisfy the Minister that it is not contrary to the national interest. In considering whether to make a declaration of relief, the Minister may only take into account national security and public safety considerations, but his or her analysis is not limited to considering the danger that the applicant presents to the public or the security of Canada. The onus to satisfy the Minister that making a declaration of relief is not contrary to the national interest rests with the foreign national applying for relief and not with the CBSA or the Minister to prove otherwise.

The purpose of this application is to present the Minister with a specific set of information pertaining to the circumstances of your case, in addition to any supplementary submissions you may wish to include. This information may assist the Minister in his/her decision to grant or deny relief from your inadmissibility.

This application is made available by the Canada Border Services Agency (CBSA) and is not sold to applicants. It is available free of charge on the CBSA's website at www.cbsa.gc.ca.

ANSWERING THE QUESTIONS

The information you provide in your Application for a Declaration of Relief, and any accompanying submissions, must be complete, true and correct; otherwise, your application may not be accepted for processing. Make sure you understand the instructions and the questions before you write your answers. If you do not understand a question, ask someone to explain it to you.

Give details where applicable, and include dates, as well as names of places and persons. **YOU MUST RESPOND FULLY TO ALL QUESTIONS. IF YOU NEED MORE SPACE, USE ADDITIONAL SHEETS OF PAPER.** On each additional sheet, write your name and Canadian immigration identification number in the top right-hand corner, sign your initials beside your name, and write the page number in the bottom right-hand corner. Also, identify the section and question number for which you are providing additional information.

Sign the applicant's declaration at the end of the form when you are finished (see Section E - Applicant Declaration: Declaration A). Note that a parent or legal guardian must sign for a person under 18 years of age.

LANGUAGE

You can obtain and complete the Application for a Declaration of Relief in either of Canada's official languages: English or French. If you do not understand English or French, you will need to use an interpreter. Make sure that the interpreter reads to you all of the instructions and questions in the form, that you understand the questions and instructions, and that the interpreter understands your answers. **YOU ARE RESPONSIBLE FOR THE INFORMATION PROVIDED IN THIS APPLICATION AND ANY ATTACHMENTS OR SUBMISSIONS THAT YOU CHOOSE TO PROVIDE.** You and the interpreter must both sign the form when you are finished (see Section E - Applicant Declaration: Declaration B; and Section F - Interpreter Declaration).

APPLYING FOR A DECLARATION OF RELIEF

A completed and signed Application for a Declaration of Relief under Subsection 42.1(1) of the *Immigration and Refugee Protection Act*, and any related submissions, should be sent to the CBSA Ministerial Relief Unit (MRU) at the following address:

Ministerial Relief Unit
Canada Border Services Agency
100 Metcalfe Street, 10th floor
Ottawa, Ontario K1A 0L8

or via email at:

Ministerial_Relief.Exemptions_Ministerielles@cbsa-asfc.gc.ca.

If your information changes or if you want to add information, you must inform the CBSA MRU. Circle or underline the information you changed or added to your Application for a Declaration of Relief, sign and date the changed pages, and send those pages (not a copy) to the CBSA MRU at the address specified above.

For more information, consult the *Guide to Applying for a Declaration of Relief under Subsection 42.1(1) of the Immigration and Refugee Protection Act*.



Government
of Canada Gouvernement
du Canada

[Canada Border Services Agency \(/menu-eng.html\)](#)

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Canada

Travellers

Guide to Applying for a Declaration of Relief Under Subsection 42.1(1) of the *Immigration and Refugee Protection Act*

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What is an Application for a Declaration of Relief ("Ministerial relief")?

Pursuant to subsection 42.1(1) of the *Immigration and Refugee Protection Act* (IRPA) and related regulations, a foreign national can apply for a declaration of relief – commonly referred to as "Ministerial relief" (MR) – if they have been found to be inadmissible to

Canada under section 34 (security), paragraphs 35(1)(b) or (c) (human or international rights violations), and/or subsection 37(1) (organized criminality) of IRPA, resulting in a removal order being issued against them by the Immigration and Refugee Board and/or an application for temporary or permanent residence being refused by Immigration, Refugees and Citizenship Canada (IRCC) in Canada or overseas.

The Ministerial Relief Unit (MRU) of the Canada Border Services Agency (CBSA) receives and processes MR applications, including drafting recommendations to the Minister of Public Safety and Emergency Preparedness ("the Minister") on whether relief should be granted or denied. MR decisions, however, rest solely with the Minister and cannot be delegated to government officials. MR is a discretionary authority, intended to be exceptional, and it is not meant to review or re-determine an inadmissibility finding.

Foreign nationals who are inadmissible to Canada under IRPA paragraph 35(1)(a) for commission of, or complicity in, genocide, war crimes or crimes against humanity are precluded from applying for MR.

How is a Ministerial relief application made?

An application for MR must be made using the *Application for a Declaration of Relief form (BSF766)* ([t/publications/formats-formulaires/bsf766-eng.html](http://publications/formats-formulaires/bsf766-eng.html)), available free of charge on the CBSA's external website. The information submitted in the application form and any attached documents must be provided in either English or French. Applicants are requested to indicate, on their application form, their preferred official language of correspondence; this is also the language in which the CBSA will draft its recommendation to the Minister.

Relief applications may not be submitted until all rights of judicial review against the immigration refusal or removal order have expired or been exhausted. Applications which do not meet these and other eligibility criteria, as described in section 24.1 of the *Immigration and Refugee Protection Regulations* (IRPR), or which do not provide the mandatory information laid out in subsection 24.2(1) of the IRPR, will be refused and returned unprocessed to the applicant.

- ❶ MR applications, and any submissions or subsequent correspondence related to an MR application, should be provided to the CBSA MRU at the following address:

Ministerial Relief Unit
Canada Border Services Agency
100 Metcalfe Street, 10th floor
Ottawa, ON K1A 0L8

or by email at:

Ministerial Relief Exemptions Ministerielles@cbsa-asfc.gc.ca
(Ministerial Relief Exemptions Ministerielles@cbsa-asfc.gc.ca)

For foreign nationals who are outside of Canada, and who do not have a representative acting on their behalf in Canada, visa offices will, in most cases, continue to act as the liaison between the applicant and the CBSA MRU. While these individuals may submit MR applications and submissions either to the responsible visa office or to the CBSA MRU directly, visa offices will retain primary responsibility for disclosing draft recommendations to applicants and communicating the decisions made by the Minister.

Note that there may be instances where the CBSA MRU may contact an applicant directly. As per section 24.5 of the IRPR, the onus is on the applicant to notify the CBSA MRU without delay of any change in their address. Failure to respond to correspondence may result in an application being closed.

Does an applicant need a representative?

Note:

There is no requirement to retain an immigration representative for the purpose of an MR application; it is the applicant's choice.

No one can guarantee that the Minister will make a declaration of relief in any applicant's case.

If an applicant chooses to retain a representative, a copy of a signed Use of a Representative form (IMM5476)

(<http://www.cic.gc.ca/english/pdf/kits/forms/IMM5476e.pdf>) available for free on the IRCC website must be provided to the MRU to authorize the selected representative to make submissions and receive information on behalf of the applicant.

An applicant may only have one representative at a time. The CBSA MRU must be immediately notified of any change in the applicant's representation, including cancellation, or a change of address, by submitting a new, completed and signed Use of a Representative form. The CBSA is unable to communicate personal details to an individual who has not been authorized to act on behalf of the applicant. Any submissions or

correspondence provided by an unauthorized individual in relation to an applicant will not be accepted or considered without a completed and duly signed *Use of a Representative* form.

IRPA makes it an offence for any person who is not authorized under the Act to knowingly, directly or indirectly, represent or advise a person for consideration – or offer to do so – in connection with a proceeding or application under that Act. Consideration includes money or any other form of compensation or reward.

What happens after a Ministerial relief application is submitted?

Once received by the CBSA MRU and determined to be eligible and complete, the MR application will be placed in the inventory of cases and processed based on its year of receipt. The MRU will review the application and any written submissions and make a recommendation to the Minister as to whether relief should be granted or denied. The CBSA's recommendation will be disclosed to the applicant prior to it being forwarded to the Minister for decision. This step will provide the applicant with the opportunity to review the recommendation, respond to any concerns raised by the CBSA, and to present additional submissions, should they wish to do so.

The Minister may, upon review of the MR application and the CBSA's recommendation, declare that the matters referred to in the above-noted inadmissibility provisions of IRPA do not constitute inadmissibility if the applicant satisfies the Minister that, in their case, relief is not contrary to the national interest. MR is not an alternative form of humanitarian review. Section 42.1(3) of IRPA stipulates that, in determining whether to make a declaration of relief, the Minister may only take into account national security and public safety considerations, but his or her analysis is not limited to considering the danger that the applicant presents to the public or to the security of Canada. The burden of proof to demonstrate that relief is warranted rests with the applicant, and not with the Minister to demonstrate otherwise.

What type of information should an applicant include in their submissions?

The purpose of the MR application form ([Application for a Declaration of Relief \(t/publications/forms-formulaires/bsf766-eng.html\)](#) BSF766 ([t/publications/forms-formulaires/bsf766-eng.html](#))) is to present a specific set of information pertaining to the circumstances of the applicant's case, which may assist the Minister in the decision to

grant or deny relief from an inadmissibility finding. The applicant may, however, submit any additional information they wish, with the goal of satisfying the Minister that relief, in their case, is not against the national interest.

Although the applicant is not restricted in terms of what type of information they may submit for consideration, this non-exhaustive list of examples may serve as a guide for the types of submissions that *may* be provided for Ministerial consideration. This list should *not* be interpreted as mandatory or prescriptive. Each application is assessed on its own merits and on the specific facts of the case.

1. Inadmissibility under IRPA paragraphs 34(1)(a), 34(1)(b), 34(1)(b.1), 34(1)(c), 34(1)(e), 37(1)(a), and/or 37(1)(b)

If the applicant's inadmissibility is related to engagement in and/or instigation of a particular act or acts, whether terrorism, violence that would or might endanger the lives or safety of persons in Canada, subversion, espionage, or organized criminality (including transnational crime), the applicant may wish to address the following factors, where applicable to their case:

- Describe in detail any circumstances where you directly or indirectly engaged in and/or instigated an act or acts of terrorism, violence, subversion, espionage, and/or organized or transnational crime. Provide dates and places and be as specific as possible about the incident(s).
- When and for how long did you engage in/instigate these or other illicit acts, if applicable?
- Describe in detail all relevant events leading up to, during AND following your engagement in and/or instigation of a specific act or acts.
- Describe in detail your precise role, and, if applicable, your ongoing duties (include dates, locations, and the impact of your act or acts).
- Explain your rationale/reason(s) for becoming engaged in and/or instigating such act or acts, and, if you have since ceased your activities, describe the motivation(s) behind that decision.
- Did you report to anyone, and, if YES, to whom did you report with respect to your engagement in the act or acts (include your direct superiors' positions/titles within an organizational hierarchy, if applicable)?
- What benefit(s) did you gain (financially, socially, through influence or power, or in any other way) from your engagement in/instigation of such activities? Provide concrete examples.
- Describe in detail the nature of any continued or current activity related to the type of act or acts for which you were determined to be inadmissible to Canada.

- Avoid any gaps in your narrative timeline and enclose any documents available to support your claims.

2. Inadmissibility under IRPA paragraph 34(1)(d)

If the applicant's inadmissibility is related to being a danger to the security of Canada, the applicant may wish to address the following factors, where applicable to their case:

- Describe in detail the activities for which you were found to be inadmissible.
- What activities did you advocate, plan, advance, orchestrate, or commit? Be specific.
- When and for how long were you involved in these acts? Are you still involved in such acts or will you be involved in the future?
- Describe in detail all relevant events leading up to, during, AND following your advocating, planning, advancing, orchestrating, engaging in and/or instigating a specific act or acts that resulted in your inadmissibility.
- Describe in detail your precise duties and roles (include dates, locations, and the impact of your act or acts).
- Explain the rationale/reason(s) for your involvement in these acts, and, if you have since ceased your activities, describe the motivation(s) behind your decision to stop.
- Did you report to anyone, and if YES, to whom did you report during your participation in any activities?
- What benefit(s) did you gain (financially, socially, through influence or power, or in any other way) from your engagement in such activities? Provide concrete examples.
- Describe in detail the nature of any continued or current activity related to the type of act or acts for which you were determined to be inadmissible to Canada.
- Avoid any gaps in your narrative timeline and enclose any documents available to support your claims.

3. Inadmissibility under IRPA paragraphs 34(1)(f) and/or 37(1)(a)

If the applicant's inadmissibility is related to membership in a particular organization or group, the applicant may wish to address the following factors, where applicable to their case:

- When and for how long were you a member of the organization?
- Explain your reasons for becoming involved with, and remaining with, that organization.

- Were you aware, while serving the group, of its reliance on violent/terrorist/subversive/criminal/spionage-related/other methods and activities in order to accomplish its goals?
- Explain in detail any circumstances where you participated in, or provided support for, the organization's involvement in such activities.
- Describe in detail your formal position(s) within the organization (if applicable), your precise duties and roles, as well as the activities in which you were involved on behalf of the organization of which you were/are a member (include dates, locations, and the impact of your activities).
- To whom did you report during your involvement with the organization (include your direct superiors' positions/titles within the organizational hierarchy)? You may wish to provide a chart or diagram indicating your position within the group.
- Describe in detail the nature and extent of your authority or the influence that you exerted while serving the organization. Provide concrete examples.
- What benefit(s) did you gain (financially, socially, through influence or power, or in any other way) from your involvement with the organization? Provide concrete examples.
- Describe in detail the nature of any continued or current activity related to your involvement with the organization. Or, if you have ended your involvement with the group, provide details of the circumstances of your dissociation.
- Explain your current perspective toward the organization you served, and toward its methods, goals and objectives.
- Avoid any gaps in your narrative timeline and enclose any documents available to support your claims.

4. Inadmissibility under IRPA paragraph 35(1)(b)

If the applicant's inadmissibility is related to being a senior official of a regime designated by the Government of Canada for having engaged in genocide, war crimes or crimes against humanity, the applicant may wish to address the following factors, where applicable to their case:

- When and for how long were you a senior official of a designated regime?
- Explain your reasons for becoming involved with, and remaining with, the regime.
- Were you aware, while serving the regime, of its reliance on violent methods or of the atrocities such as human or international rights violations committed by that government?
- Explain in detail any circumstances where you participated in, or provided support for, the regime's involvement in any such activities.

- Describe in detail your position(s) (including the names of units, sections, divisions, branches, departments, etc.) and your precise duties and roles, as well as the activities in which you were involved on behalf of the designated government (include dates, locations, and the impact of your activities on departmental/governmental operations).
- To whom did you report during your involvement with the designated regime (include your direct superiors' positions/titles/ranks within the organizational/departmental/governmental hierarchy)? You may wish to provide a chart or diagram indicating your position(s) within the hierarchy.
- Describe in detail the nature and extent of your authority or the influence that you exerted while serving the regime as a senior official. Provide concrete examples.
- What benefit(s) did you gain (financially, socially, through influence or power, or in any other way) from your involvement with the regime? Provide concrete examples.
- Describe in detail the nature of any continued or current activity related to your involvement with the regime. Or, if you have ended your involvement with the designated entity, provide details of the circumstances of your dissociation.
- Explain your current perspective toward the regime you served, and toward its methods, goals and objectives.
- Avoid any gaps in your narrative timeline and enclose any documents available to support your claims.

5. Inadmissibility under IRPA paragraph 35(1)(c)

If the applicant's inadmissibility is related to their being a person whose entry into or stay in Canada is restricted pursuant to a decision, resolution or measure of an international organization of states or association of states (also known as a sanction), the applicant may wish to:

- Provide any information and documentation relating to the specifics of the imposed sanction(s), and why/how you were the subject of the sanction(s).
- Provide any information and documentation that you believe will satisfy the Minister that your inadmissibility should be overcome by a declaration of relief.

6. All inadmissibilities

All applicants may wish to address the following general considerations, where applicable:

- Describe circumstances where you used, planned or advocated the use of armed struggle, violence, and/or criminal acts to reach political, religious, social,

organizational or personal objectives. Be specific (include dates, locations, the impact of your activities, etc.).

- Explain your current perspective toward relying on violent/terrorist/subversive/criminal/other methods or tactics to achieve organizational, political or personal goals.
- Address any circumstances where you were arrested and/or detained and/or jailed, and include dates (not limited to criminal activity, charges or convictions). Be specific.
- Address any circumstances where you have been charged with, convicted of, on trial for, or party to a crime or offence, or the subject of any criminal proceedings, in any country.
- According to IRPA, when assessing whether MR would be against the national interest, the Minister may only take into account national security and public safety considerations. You may wish to bring to the Minister's attention any personal factors, or mitigating or extenuating circumstances, related to the national interest that you believe may help to satisfy the Minister that relief is warranted.

How long does it take for a Ministerial relief decision to be rendered by the Minister?

As a non-delegable decision that must be made personally by the Minister, MR frequently requires an in-depth review of a voluminous amount of information and submissions, entails a comprehensive assessment of many factors, and involves input from relevant partners, as well as a review by senior officials. Given the complexity of the process, an exact timeline as to when an applicant may expect a decision to be rendered by the Minister cannot be predicted.

What happens with the applicant's status following a Ministerial relief decision?

A declaration of relief does not automatically confer status under IRPA.

If the Minister denies relief to an applicant, the applicant will not be relieved from their inadmissibility under the provision(s) of IRPA against which they sought a Ministerial declaration.

If the Minister is satisfied, following his or her assessment of the applicant's case, that it is not contrary to the national interest to overcome the applicant's inadmissibility, the Minister may make a declaration of relief. This will eliminate the inadmissibility as a barrier to

obtaining an immigration visa or regularizing the applicant's status in Canada through IRCC, should they so wish, provided that no additional inadmissibilities against the applicant exist or are subsequently determined.

Date modified:

2017-03-15



Canada Border Services Agency Agence des services frontaliers du Canada

Canada Border Services Agency – Ministerial Relief Unit
100 Metcalfe St., 10th Floor
Ottawa, ON
K1A 0L8
Fax: 613-946-5983
E-Mail: Ministerial_Relief.Exemptions_Ministerielles@cbsa-asfc.gc.ca

MMMM DD, YYYY

NAME (APPLICANT or REPRESENTATIVE)
OFFICE (IF APPLICABLE)
ADDRESS
CITY, PROVINCE
POSTAL CODE

Re: **APPLICANT'S NAME, Client ID: FOSS ID**

Mr./Ms. **APPLICANT or REPRESENTATIVE,**

This is further to your/your client's request to seek Ministerial relief pursuant to former subsection 34(2)/35(2)/37(2) of the *Immigration and Refugee Protection Act*. You will find attached a copy of the information on this matter that will be presented to the Minister of Public Safety and Emergency Preparedness (the Minister). This consists of a recommendation from the President of the Canada Border Services Agency (CBSA) to the Minister and all supporting documentation. This also includes a copy of all the submissions presented by the client as they appear in our file.

The CBSA is prepared to present this matter to the Minister for a decision. However, before doing so, we would like to invite you to review this material and provide us with any further comments you deem necessary. These comments will be included for consideration by the Minister.

Should you deem it unnecessary to provide additional comments, please advise our unit of this decision. Should we receive no response for 60 days following your receipt of this letter, we will proceed to put the matter before the Minister.

Sincerely,

TEAM LEADER
Senior Program Advisor
Canada Border Services Agency

Canada



Canada Border Services Agency Agence des services frontaliers du Canada

Ministerial Relief Unit
Canada Border Services Agency
100 Metcalfe St., 10th Floor
Ottawa, ON K1A 0L8

E-Mail: Ministerial_Relief.Exemptions_Ministerielles@cbsa-asfc.gc.ca

DATE

Via Registered Mail

Mr./Mrs./Ms. _____

Re: Ministerial Relief Application – **Final** Confirmation of Continued Interest – Applicant Name, Client ID: XXXX-XXXX

Dear Mr./Mrs./Ms. _____,

This letter concerns your pending application for a declaration of relief (Ministerial relief), submitted under subsection/former subsection _____ of the *Immigration and Refugee Protection Act (IRPA)*, in Month Year.

On DATE, our office sent you a letter requesting that you confirm your continued interest in pursuing your pending application for Ministerial relief. At that time, you were asked to provide a response within 60 days of the date on that letter. You were also informed that failure to respond may result in the administrative closure of your application.

We are writing to advise you that our office has not received a response to date. Therefore, should we not receive a response within **60 calendar days** from the date of this letter, your application for Ministerial relief will be administratively closed pursuant to paragraph 24.4(a) of the *Immigration and Refugee Protection Regulations*. In that case, should you wish to seek Ministerial relief in the future, you would be required to submit a new application, which would be processed according to the laws and jurisprudence in effect at that time.

Should you have any questions concerning the above, please do not hesitate to contact the undersigned via the postal or email address at the top of this letter.

Regards,

Name
Title, Ministerial Relief Unit

Canada



Canada Border Services Agency Agence des services frontaliers du Canada

Ministerial Relief Unit
Canada Border Services Agency
100 Metcalfe St., 10th Floor
Ottawa, ON K1A 0L8

E-Mail: Ministerial_Relief.Exemptions_Ministerielles@cbsa-asfc.gc.ca

Date _____

Via Registered Mail

Mr./Mrs./Ms. _____

Re: Return of Ministerial Relief Application – Ineligibility to Apply – Applicant Name, Client ID:
XXXX-XXXX

Dear Mr./Mrs./Ms. _____,

This letter concerns your application for a declaration of relief (Ministerial relief) submitted under subsection 42.1(1) of the *Immigration and Refugee Protection Act* (IRPA), received by the Canada Border Services Agency (CBSA) on month day, year.

Please be advised that, on March 10, 2017, amendments to the *Immigration and Refugee Protection Regulations* (IRPR) came into force, which established new eligibility criteria for submitting an application for Ministerial relief. IRPR section 24.3 allows an application to be returned, unprocessed, if it does not meet the prescribed requirements. In your case, SELECT REASON(S) BELOW

your inadmissibility is not one for which Ministerial relief is available.

IF inadmissible under 35(1)(a): your inadmissibility is not one for which Ministerial relief is available. Persons who are inadmissible under IRPA paragraph 35(1)(a), for involvement or complicity in war crimes, crimes against humanity or genocide, are not eligible for Ministerial relief.

your application is incomplete. You have not provided all of the information required by subsection 10(1), 10(2) or 24.2(1) of the IRPR; specifically, [specify relevant paragraph and information that is missing].

you do not have a determination of inadmissibility that has resulted in the refusal of an application for permanent or temporary resident status, or the issuance of a removal order, as required by IRPR subsection 24.1(1).

you applied on DATE for judicial review of your removal order and a final decision is still outstanding, rendering you ineligible to apply for MR, pursuant to IRPR subsection 24.1(2).

Canada



Agence des services frontaliers du Canada

Ministerial Relief Unit
Canada Border Services Agency
100 Metcalfe St., 10th Floor
Ottawa, ON K1A 0L8

E-Mail: Ministerial_Relief.Exemptions_Ministerielles@cbsa-asfc.gc.ca

Date _____

Via Registered Mail

Mr./Mrs./Ms. _____

Re: Regulatory Closure of Ministerial Relief Application – Applicant Name, Client ID: XXXX-XXXX

Dear Mr./Mrs./Ms. _____,

This letter concerns your pending application for a declaration of relief (Ministerial relief), submitted under subsection/former subsection ____ of the *Immigration and Refugee Protection Act* (IRPA), in month year.

Please be advised that on March 10, 2017, amendments to the *Immigration and Refugee Protection Regulations* (IRPR) came into force which allow for the closure of pending Ministerial relief applications in certain circumstances. In your case, **SELECT REASON(S) BELOW**

did not respond within 60 days to previous attempts by the Ministerial Relief Unit of the Canada Border Services Agency to contact you in writing, the most recent letter having been sent on DATE. [paragraph 24.4(a)]

were granted permanent resident status on DATE. [paragraph 24.4(b)]

requested the withdrawal of your application, in writing, on DATE. [paragraph 24.4(c)]

applied on DATE for judicial review of your removal order, and a final decision is still outstanding. [paragraph 24.4(d)] **** This provision can only be applied to MR applications submitted on or after March 10, 2017.**

applied on DATE for judicial review of the underlying inadmissibility finding related to the grounds for which you sought relief, and a final decision is still outstanding. [paragraph 24.4(d)] **** This provision can only be applied to MR applications submitted on or after March 10, 2017.**

were found not to be inadmissible on DATE with respect to the grounds for which you sought relief, and that decision is final. [Transitional provision paragraph 5(1)(a)]

Canada



Canada Border Services Agency Agence des services frontaliers du Canada

Ministerial Relief Unit
Canada Border Services Agency
100 Metcalfe St., 10th Floor
Ottawa, ON K1A 0L8

E-Mail: Ministerial_Relief.Exemptions_Ministerielles@cbsa-asfc.gc.ca

DATE

Via Registered Mail

Mr./Mrs./Ms. _____

Re: Ministerial Relief Application – Confirmation of Continued Interest – Applicant Name, Client ID:
XXXX-XXXX

Dear Mr./Mrs./Ms. _____,

This letter concerns your pending application for a declaration of relief (Ministerial relief), submitted under subsection/former subsection _____ of the *Immigration and Refugee Protection Act* (IRPA), in Month Year.

Please be advised that, on March 10, 2017, amendments to the *Immigration and Refugee Protection Regulations* (IRPR) came into force, which allow for the closure of pending Ministerial relief applications in certain circumstances. We are therefore writing to determine whether you continue to be interested in pursuing your pending application for Ministerial relief. We request that you please confirm your intent to our office, in writing, no later than 60 calendar days from the date of this letter.

Please note that not responding to this letter may lead to the administrative closure of your application for Ministerial relief under paragraph 24.4(a) of the IRPR.

Should you have any questions concerning the above, please do not hesitate to contact the undersigned via the postal or email address at the top of this letter.

Regards,

Name
Title, Ministerial Relief Unit

Canada



Canada Border Services Agency Agence des services frontaliers du Canada

Ministerial Relief Unit
Canada Border Services Agency
100 Metcalfe St., 10th Floor
Ottawa, ON K1A 0L8

E-Mail: Ministerial_Relief.Exemptions_Ministerielles@cbsa-asfc.gc.ca

DATE

Via Registered Mail

Mr./Mrs./Ms. _____

Re: Return of Ministerial Relief Application – Applicant Name, Client ID: XXXX-XXXX

Dear Mr./Mrs./Ms. _____,

This letter concerns your application for a declaration of relief (Ministerial relief) submitted under subsection 42.1(1) of the *Immigration and Refugee Protection Act* (IRPA), dated DATE, and received by the Canada Border Services Agency (CBSA) on DATE.

Please be advised that, on March 10, 2017, amendments to the *Immigration and Refugee Protection Regulations* (IRPR) came into force, which established new criteria for submitting an application for Ministerial relief. Specifically, IRPR paragraph 10(1)(a) now requires that, in the case of an application for a declaration of relief under subsection 42.1(1) of the Act, individuals must complete the application form provided by the CBSA (*Application for a Declaration of Relief under Subsection 42.1(1) of the Immigration and Refugee Protection Act (IRPA)*; BSF766). This form is available, free of charge, at <http://www.cbsa-asfc.gc.ca/publications/forms-formulaires/bsf766-eng.pdf>. A paper copy of the application form has been enclosed for your convenience.

As you have not submitted the required application form, your application for Ministerial relief has not been accepted for processing. Please find enclosed the original documents that you submitted; no copy has been kept by the CBSA. Should you still wish to make an application for a declaration of relief, please ensure the required application form is completed and signed, and included with your submissions.

Should you have any questions concerning the above, please do not hesitate to contact the undersigned via the postal or email address at the top of this letter.

Regards,

Name
Title, Ministerial Relief Unit

Canada



Canada Border
Services Agency

Agence des services
frontaliers du Canada



**Ministerial Relief / Dispense
Ministérielle**

LAST NAME, FIRST NAME(S)

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PROTECTION • SERVICE • INTEGRITY

Canada

000302

Ministerial Relief – Reference Sheet

NAME:		
FOSS ID:	DOB:	COB:
34(2) / 35(2) / 37(2)(A)		GROUP:
Date of MR application:		
Previous recommendation(s) disclosed: Y / N Date:		
Local Office:		
<input type="checkbox"/> In Canada <input type="checkbox"/> Overseas	CR: Y / N	Date of arrival in Canada:
27/44 Report: Y / N		Date:
Admissibility hearing: Y / N		Date:
Removal Order: Y / N		Date:
APR Decision: Y / N		<input type="checkbox"/> Approved in principle <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Held in abeyance

Documents on file:	Dated:	File requested from:
PIF	Y / N	
APR	Y / N	
Interview Notes	Y / N	
CIC/CBSA Report	Y / N	
IRB Decision	Y / N	
44 Report	Y / N	
CSIS Brief	Y / N	
APR Refusal Letter	Y / N	
Submissions	Y / N	

Comments:
Ex. Previously disclosed, Judicial review, high profile, in detention, litigation etc.



Canada Border Services Agency Agence des services frontaliers du Canada

Ministerial Relief Section
Canada Border Services Agency
100 Metcalfe St, 10th floor
Ottawa, ON K1A 0L8

Month dd, yyyy

The Registrar
Federal Court of Canada
Address

Dear Registrar:

Re: LAST NAME, First Name. IMM-XXXX-XX

Pursuant to Rule 17 of the *Federal Court Immigration and Refugee Protection Rules*, please find enclosed two certified copies of the prepared record.

Yours truly,

Keith Farrier
Senior Program Advisor

cc. Department of Justice
Address

cc. Opposing Counsel
Address

Canada

000304

CERTIFICATE

In the matter of the decision for Ministerial Relief regarding LAST NAME , First Name (IMM-XXXX-XX)

I, *MR team member*, **CERTIFY THAT** this is a true copy of the material in the possession of the office of the Ministerial Relief Unit at the Canada Border Services Agency, whose decision is the subject of this Application under section 18.1 of *Federal Courts Act*. The material has been carefully examined by me, compared with the said original, is identical and complies with section 87 of the *Immigration and Refugee Protection Act*.

Dated: DD of MONTH, YEAR in Ottawa, ON.

MR team member

Junior Program Officer

Date



Canada Border
Services Agency

Agence des services
frontaliers du Canada

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SECRET with Attachment X

For action

**MINISTERIAL RELIEF APPLICATION PURSUANT TO FORMER
SUBSECTION 34(2) OF THE IMMIGRATION AND REFUGEE PROTECTION ACT**
LAST NAME, FIRST NAME (DOB); UCI: XXXX-XXXX

For the Minister

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PURPOSE

The Canada Border Services Agency (CBSA) requests that you review the following recommendation, as well as the attached documents, and indicate your approval or denial of the application for Ministerial relief of **FULL NAME**.

SYNOPSIS

FULL NAME is a foreign national/Convention refugee who has been found to be inadmissible or there are reasonable grounds to believe is inadmissible to Canada pursuant to paragraph 34(1)(f) of the *Immigration and Refugee Protection Act* (IRPA) for being a member of an organization that there are reasonable grounds to believe engages, has engaged or will engage in acts of espionage, subversion or terrorism, specifically the **NAME OF ORGANIZATION**. He/She has applied for Ministerial relief pursuant to former subsection 34(2) of IRPA.

The CBSA recommends that you **deny/grant** Ministerial relief to **FULL NAME**.

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LEGISLATIVE BACKGROUND

Ministerial Relief – Enabling Legislation

This recommendation has been prepared under the provisions of the former subsection 34(2) of IRPA, taking into consideration the guidance of the Supreme Court of Canada (SCC) in *Agraira v. Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36 (*Agraira*).

The applicable legislation is as follows:

Former subsection 34(1) of IRPA stated:

- (1) A permanent resident or a foreign national is inadmissible on security grounds for
 - (a) engaging in an act of espionage or an act of subversion against a democratic government, institution or process as they are understood in Canada;
 - (b) engaging in or instigating the subversion by force of any government;
 - (c) engaging in terrorism;
 - (d) being a danger to the security of Canada;
 - (e) engaging in acts of violence that would or might endanger the lives or safety of persons in Canada; or
 - (f) being a member of an organization that there are reasonable grounds to believe engages, has engaged or will engage in acts referred to in paragraph (a), (b) or (c).

Former subsection 34(2) of IRPA stated:

- (2) The matters referred to in subsection (1) do not constitute inadmissibility in respect of a permanent resident or a foreign national who satisfies the Minister that their presence in Canada would not be detrimental to the national interest.

Former subsection 6(3) of IRPA stated:

- (3) Despite subsection (2), the Minister may not delegate the power conferred by subsection 20.1(1) or 77(1) or the ability to make determinations under subsection 34(2) or 35(2) or paragraph 37(2)(a).

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Ministerial Relief – Legal Test

In *Agraira*, the SCC held that the predominant considerations in assessing national interest are national security and public safety, which ought to be interpreted in the context of Canada as a parliamentary democracy committed to protecting fundamental values of the Charter and meeting Canada's international obligations. In addition, the SCC noted that Ministerial relief is not intended to be an alternative form or a review of humanitarian and compassionate factors; nevertheless, personal factors of an applicant may be considered in an assessment for relief, insofar as they relate to determining whether the applicant's presence would be detrimental to the national interest.

The burden of proof does not rest with the Minister of Public Safety and Emergency Preparedness (MPSEP) or the CBSA but with the individual applying for Ministerial relief to satisfy the Minister that their presence in Canada would not be detrimental to the national interest and, accordingly, that relief is warranted, notwithstanding the applicant's inadmissibility. Ministerial relief is not meant to review an inadmissibility finding and is a discretionary authority, intended to be exceptional.

ORGANIZATION / HISTORICAL BACKGROUND

Include the short standardized summary paragraph of the organization.

APPLICANT'S IMMIGRATION HISTORY

Ensure that you conduct checks in FOSS, NCMS, GCMS, CPIC and STS beforehand.

This section should succinctly address client's processing through the immigration stream up to the present time:

- *Citizenship or, if stateless, country of last permanent residence;*
- *Date of arrival, route, documents used, if possible;*
- *Authority (if any) used for entry to Canada (e.g. visitor, PR, refugee);*
- *Date of refugee claim, if applicable, and its result;*
- *Date of application for permanent residence, if applicable, and its result;*
- *Date(s) of any interviews with Canadian officials and resultant reports;*
- *Date of section 27/44 report, if applicable, and its result (e.g. admissibility hearing and decision);*
- *Criminal activity and related dates and information as it pertains to immigration records or enforcement activities (otherwise, include the information only in the "criminal conduct" section);*
- *Any other relevant date and/or application (e.g. PDRRC/PRRA, etc.);*
- *Court proceedings (appeals, judicial reviews, etc.)*

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The immigration history should describe the grounds for the applicant's inadmissibility, including the relevant paragraph of IRPA and by whom the applicant was found to be inadmissible (e.g. CIC officer, IRB admissibility hearing, etc).

[NAME] made an application with submissions for Ministerial relief on [Month DD, YYYY] (Attachment).

ELEMENTS CONSIDERED

Information provided by applicant, CIC, CBSA and other relevant sources.

NOTE: Present all facts or factors in an objective manner. Any analysis in response to the arguments made in submissions should be reserved for the 'Assessment' section.

This section should also include the following:

- Notable inconsistencies and contradictions in the subject's story.
- The absence of supporting documentation on the part of the applicant may also be noted.

If applicable| Criminal Conduct

- Criminal record (if so, what were the charges; length of sentence served; was a pardon received etc?) or other involvement in criminal activity (if so, what activity; what information supports such claims and is it from a reliable source such as enforcement partners; any explanation as to why there are no charges or convictions?) [CPIC and NCIC checks]

If applicable| IRCC/CBSA Officer's Input

The CBSA has reviewed the [IRCC/CBSA officer's report]. The officer recommended that [NAME] be granted/denied Ministerial relief. However, the decision on relief rests solely with the MPSEP. While the officer's input has been taken into consideration, it is not binding upon the Minister.

If applicable| Prior CBSA Ministerial Relief Recommendations

The CBSA disclosed a draft Ministerial relief recommendation to [NAME] in [month year]. The CBSA's recommendation was to grant/deny Ministerial relief. That draft was not delivered to the MPSEP for decision. As with any other recommendation, it is in no way binding upon the Minister and does not impinge upon Ministerial discretion. As a result of the disclosure, [NAME] provided additional submissions in [month year]. These submissions were taken into consideration in the present draft recommendation.

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[If applicable] Prior Decision by the MPSEP

Provide any relevant details regarding previous MR decisions, including whether they were related to the same grounds for inadmissibility as the current application, and any court or policy decisions that may have resulted in the same MR request being re-determined. Ensure that this information is consistent with what, if anything, has been mentioned in the legal test.

ASSESSMENT

This section should provide a concise and clear analysis that unambiguously aligns with the legal test above. Has the applicant demonstrated that his/her presence in Canada would not be detrimental to the national interest? What factors or evidence were particularly compelling, significant or persuasive in supporting this conclusion and how are they linked to national interest or national security and public safety? Were these factors supported by the submissions and/or by reliable evidence? Note if there are exceptional circumstances that might warrant relief.

RECOMMENDATION

As the Minister of Public Safety and Emergency Preparedness, you have the sole authority to grant relief under former subsection 34(2) of IRPA. Based on the above-noted considerations and assessment, the CBSA [] / [] satisfied that the presence of NAME in Canada would not be detrimental to the national interest. Therefore, the CBSA recommends that you [] relief.

The CBSA requests that you review the attachments in the context of the Agency's assessment and indicate your approval or denial of NAME's application for Ministerial relief.

If you agree with the CBSA's recommendation to [], NAME will be relieved from inadmissibility under paragraph 34(1)(f) of IRPA.

If you do not agree with the CBSA's recommendation to [], please provide detailed reasons.

OR

If you agree with the CBSA's recommendation to [], NAME will not be relieved from inadmissibility under paragraph 34(1)(f) of IRPA.

If you do not agree with the CBSA's recommendation to [], please provide reasons.

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John Ossowski
President

DRAFT

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Minister's Response

I am satisfied that the presence of NAME in Canada would not be detrimental to the national interest.

I grant relief:

I am not satisfied that the presence of NAME in Canada would not be detrimental to the national interest.

I deny relief:

The Honourable Ralph Goodale, P.C., M.P.

Date

DRAFT

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ATTACHMENTS

1. Background information and source documents
2. XXXXX

c.c.: Mr. Malcolm Brown, Deputy Minister
Public Safety Canada

DRAFT



Agence des services frontaliers du Canada

Canada Border Services Agency

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Pour action

**DEMANDE DE DISPENSE MINISTÉRIELLE
EN VERTU DE L'ANCIEN PARAGRAPHE 34(2) DE
LA LOI SUR L'IMMIGRATION ET LA PROTECTION DES RÉFUGIÉS
NOM, PRENOM (DDN); IUC : XXXX-XXXX**

À l'attention du ministre

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OBJET :

L'Agence des services frontaliers du Canada (ASFC) vous demande de bien vouloir examiner la présente recommandation ainsi que les pièces jointes et d'indiquer si vous approuvez ou si vous rejetez la demande de dispense ministérielle de **NOM AU COMPLET**.

SYNOPSIS :

NOM AU COMPLET est un(e) étranger(e)/refugié(e) au sens de la Convention interdit(e)/dont il y a des motifs raisonnables de croire qu'il/elle est interdit(e) de territoire au Canada en vertu de l'alinéa 34(1)f) de la *Loi sur l'immigration et la protection des réfugiés* (LIPR) puisqu'il/elle est membre d'une organisation dont il y a des motifs raisonnables de croire qu'elle est, a été ou sera l'auteur d'un acte visé d'espionnage, de la subversion ou du terrorisme, spécifiquement **XXX**. Il/Elle a demandé une dispense ministérielle en vertu de l'ancien paragraphe 34(2) de la LIPR.

L'ASFC recommande que vous **accordiez/refusiez** la dispense ministérielle à **NOM AU COMPLET**.

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CONTEXTE LÉGISLATIF

Dispense ministérielle – Loi habilitante

Cette recommandation a été préparée en vertu de l'ancien paragraphe 34(2) de la LIPR et tient compte des directives de la Cour suprême du Canada (CSC) dans l'affaire *Agraira c. Canada (Sécurité publique et Protection civile)*, 2013 CSC 36 (*Agraira*).

La loi applicable est la suivante :

L'ancien paragraphe 34(1) de la LIPR énonçait :

(1) Emportent interdiction de territoire pour raison de sécurité les faits suivants :

- a) être l'auteur d'actes d'espionnage ou se livrer à la subversion contre toute institution démocratique, au sens où cette expression s'entend au Canada;
- b) être l'instigateur ou l'auteur d'actes visant au renversement d'un gouvernement par la force;
- c) se livrer au terrorisme;
- d) constituer un danger pour la sécurité du Canada;
- e) être l'auteur de tout acte de violence susceptible de mettre en danger la vie ou la sécurité d'autrui au Canada;
- f) être membre d'une organisation dont il y a des motifs raisonnables de croire qu'elle est, a été ou sera l'auteur d'un acte visé aux alinéas a), b) ou c).

L'ancien paragraphe 34(2) de la LIPR énonçait :

(2) Ces faits n'emportent pas interdiction de territoire pour le résident permanent ou l'étranger qui convainc le ministre que sa présence au Canada ne serait nullement préjudiciable à l'intérêt national.

L'ancien paragraphe 6(3) de la LIPR énonçait :

(3) Ne peuvent toutefois être déléguées les attributions conférées par les paragraphes 20.1(1) ou 77(1) et la prise de décision au titre des paragraphes 34(2) ou 35(2) ou de l'alinéa 37(2)a).

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Dispense ministérielle – critère juridique

Dans l'affaire *Agraira*, la CSC a estimé que les considérations prédominantes dans l'évaluation de l'intérêt national sont la sécurité nationale et la sécurité publique, qui doivent être interprétées dans le contexte du Canada en tant que démocratie parlementaire qui s'engage à protéger les valeurs fondamentales de la Charte et à respecter les obligations internationales du Canada. En outre, la CSC a noté que la dispense ministérielle ne vise pas à être une formule de rechange ou un examen des facteurs d'ordre humanitaire; néanmoins, les caractéristiques personnelles d'un demandeur peuvent être prises en considération dans l'évaluation de la dispense, dans la mesure où ils servent à déterminer si la présence du demandeur serait préjudiciable à l'intérêt national.

Le fardeau de la preuve ne repose pas sur le ministre de la Sécurité publique et de la Protection civile (MSPPC) ou sur l'ASFC, mais sur l'individu présentant une demande de dispense ministérielle pour convaincre le ministre que sa présence au Canada ne serait pas préjudiciable à l'intérêt national et, par conséquent, que la dispense est justifiée, malgré l'interdiction de territoire du demandeur. La dispense ministérielle ne vise pas à réexaminer une conclusion d'interdiction de territoire et constitue un pouvoir discrétionnaire destiné à être exceptionnel.

CONTEXTE ORGANISATIONEL / HISTORIQUE

Include the short standardized summary paragraph of the organization.

HISTORIQUE D'IMMIGRATION DU DEMANDEUR

Ensure that you conduct checks in FOSS, NCMS, GCMS, CPIC and STS beforehand.

This section should succinctly address client's processing through the immigration stream up to the present time:

- *Citizenship or, if stateless, country of last permanent residence;*
- *Date of arrival, route, documents used, if possible;*
- *Authority (if any) used for entry to Canada (e.g. visitor, PR, refugee);*
- *Date of refugee claim, if applicable, and its result;*
- *Date of application for permanent residence, if applicable, and its result;*
- *Date(s) of any interviews with Canadian officials and resultant reports;*
- *Date of section 27/44 report, if applicable, and its result (e.g. admissibility hearing and decision);*
- *Criminal activity and related dates and information as it pertains to immigration records or enforcement activities (otherwise, include the information only in the "criminal conduct" section);*
- *Any other relevant date and/or application (e.g. PDRRC/PRRA, etc.);*
- *Court proceedings (appeals, judicial reviews, etc.)*

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The immigration history should describe the grounds for the applicant's inadmissibility, including the relevant paragraph of IRPA and by whom the applicant was found to be inadmissible (e.g. CIC officer, IRB admissibility hearing, etc).

NOM a par la suite fait une demande de dispense ministérielle avec documents à l'appui le JJJ MM AAAA (voir la pièce jointe X).

FACTEURS CONSIDÉRÉS

Information provided by applicant, CIC, CBSA and other relevant sources.

NOTE: Present all facts or factors in an objective manner. Any analysis in response to the arguments made in submissions should be reserved for the 'Assessment' section.

This section should also include the following:

- Notable inconsistencies and contradictions in the subject's story.
- The absence of supporting documentation on the part of the applicant may also be noted.

[S'il y a lieu] Comportement criminel

- Criminal record (if so, what were the charges; length of sentence served; was a pardon received, etc?) or other involvement in criminal activity (if so, what activity; what information supports such claims and is it from a reliable source such as enforcement partners; any explanation as to why there are no charges or convictions?) [CPIC and NCIC checks]

[S'il y a lieu] Contribution de l'agent de CIC/l'ASFC

L'ASFC a examiné le rapport de l'agent de CIC de l'ASFC. L'agent a recommandé qu'on accorde/refuse la dispense ministérielle au demandeur. Par contre, la décision d'accorder ou non une dispense ministérielle revient au MSPPC. Bien que la contribution de l'agent ait été prise en considération, elle n'est pas contraignante pour le ministre.

[S'il y a lieu] Recommandations précédentes de l'ASFC relatives à la dispense ministérielle

L'ASFC a divulgué l'ébauche d'une recommandation relative à la dispense ministérielle à NOM en mois année. La recommandation de l'ASFC était [l'accorder ou de rejeter] la dispense ministérielle. Cette ébauche n'a pas été acheminée au MSPPC aux fins de la prise d'une décision. Comme pour toute autre recommandation, elle n'est aucunement contraignante pour le ministre et n'empêche pas sur le pouvoir discrétionnaire du ministre. Suite à la divulgation, NOM

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a fourni d'autres observations, en [mois année]. Ces observations ont été prises en considération dans la présente ébauche de la recommandation.

[S'il y a lieu] Décision précédente du MSPPC

Provide any relevant details regarding previous MR decisions, including whether they were related to the same grounds for inadmissibility as the current application, and any court or policy decisions that may have resulted in the same MR request being re-determined. Ensure that this information is consistent with what, if anything, has been mentioned in the legal test.

ÉVALUATION

This section should provide a concise and clear analysis that unambiguously aligns with the legal test above. Has the applicant demonstrated that his/her presence in Canada would not be detrimental to the national interest? What factors or evidence were particularly compelling, significant or persuasive in supporting this conclusion and how are they linked to national interest or national security and public safety? Were these factors supported by the submissions and/or by reliable evidence? Note if there are exceptional circumstances that might warrant relief.

RECOMMANDATION

À titre de ministre de la Sécurité publique et de la Protection civile, vous seul avez le pouvoir d'accorder une dispense ministérielle en vertu de l'ancien paragraphe 34(2) de la LIPR. En fonction des facteurs pris en considération et de l'évaluation mentionnés ci-dessus, l'ASFC est/n'est pas convaincue que la présence de NOM au Canada ne serait nullement préjudiciable à l'intérêt national. Par conséquent, l'ASFC recommande que vous accordiez/rejetiez la dispense.

L'ASFC vous demande de bien vouloir examiner les pièces jointes dans le contexte de l'évaluation de l'Agence et d'indiquer votre approbation ou votre refus de la demande de dispense ministérielle présentée par NOM.

Si vous êtes d'accord avec la recommandation de l'ASFC d'accorder la dispense ministérielle, l'interdiction de territoire en vertu de l'alinéa 34(1)f) de la LIPR de NOM sera levée.

Si vous n'êtes pas d'accord avec la recommandation de l'ASFC d'accorder la dispense ministérielle, veuillez fournir des raisons détaillées.

OU

PROTÉGÉ B
SECRET avec la pièce jointe X

Si vous êtes d'accord avec la recommandation de l'ASFC de refuser la dispense ministérielle, l'interdiction de territoire en vertu de l'alinéa 34(1)f) de la LIPR de **NOM** ne sera pas levée.

Si vous n'êtes pas d'accord avec la recommandation de l'ASFC de refuser la dispense ministérielle, veuillez fournir des raisons.

John Ossowski
Président

Réponse du ministre

Je suis convaincu que la présence de **NOM au Canada ne serait pas préjudiciable à l'intérêt national.**

J'accorde la dispense :

Je ne suis pas convaincu que la présence de **NOM au Canada ne serait pas préjudiciable à l'intérêt national.**

Je rejette la dispense :

Steven Blaney, C.P., député

Date:

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PIÈCES JOINTES:

1. Information contextuelle et documents sources
2. XXXXX





Canada Border
Services Agency

Agence des services
frontaliers du Canada

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For action

**MINISTERIAL RELIEF APPLICATION PURSUANT TO FORMER
SUBSECTION 35(2) OF THE IMMIGRATION AND REFUGEE PROTECTION ACT**
LAST NAME, FIRST NAME (DOB); UCI: XXXX-XXXX

For the Minister

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PURPOSE

The Canada Border Services Agency (CBSA) requests that you review the following recommendation, as well as the documents submitted, and indicate your approval or denial of the application for Ministerial relief of **FULL NAME**.

SYNOPSIS

FULL NAME is a foreign national/Convention refugee who has been found to be inadmissible or there are reasonable grounds to believe is inadmissible to Canada pursuant to paragraph 35(1)(b) of the *Immigration and Refugee Protection Act* (IRPA) for being a prescribed senior official in the service of a government that, in the opinion of the Minister, engages or has engaged in terrorism, systematic or gross human rights violations, or genocide, a war crime or a crime against humanity, specifically the **NAME OF REGIME or ORGANIZATION**. He/She has applied for Ministerial relief pursuant to former subsection 35(2) of IRPA.

The CBSA recommends that you **deny/grant** Ministerial relief to **FULL NAME**.

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LEGISLATIVE BACKGROUND

Ministerial Relief – Enabling Legislation

This recommendation has been prepared under the provisions of the former subsection 35(2) of IRPA, taking into consideration the guidance of the Supreme Court of Canada (SCC) in *Agraira v. Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36 (*Agraira*).

The applicable legislation is as follows:

Subsection 35(1) of the IRPA states:

(1) A permanent resident or a foreign national is inadmissible on grounds of violating human or international rights for

- (a) committing an act outside Canada that constitutes an offence referred to in sections 4 to 7 of the *Crimes Against Humanity and War Crimes Act*;
- (b) being a prescribed senior official in the service of a government that, in the opinion of the Minister, engages or has engaged in terrorism, systematic or gross human rights violations, or genocide, a war crime or a crime against humanity within the meaning of subsections 6(3) to (5) of the *Crimes Against Humanity and War Crimes Act*; or
- (c) being a person, other than a permanent resident, whose entry into or stay in Canada is restricted pursuant to a decision, resolution or measure of an international organization of states or association of states, of which Canada is a member, that imposes sanctions on a country against which Canada has imposed or has agreed to impose sanctions in concert with that organization or association.

Former subsection 35(2) of the IRPA stated:

(2) Paragraphs (1)(b) and (c) do not apply in the case of a permanent resident or a foreign national who satisfies the Minister that their presence in Canada would not be detrimental to the national interest.

Former subsection 6(3) of the IRPA stated:

(3) Despite subsection (2), the Minister may not delegate the power conferred by subsection 20.1(1) or 77(1) or the ability to make determinations under subsection 34(2) or 35(2) or paragraph 37(2)(a).

Ministerial Relief – Legal Test

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In *Agraira*, the SCC held that the predominant considerations in assessing national interest are national security and public safety, which ought to be interpreted in the context of Canada as a parliamentary democracy committed to protecting fundamental values of the Charter and meeting Canada's international obligations. In addition, the SCC noted that Ministerial relief is not intended to be an alternative form or a review of humanitarian and compassionate factors; nevertheless, personal factors of an applicant may be considered in an assessment for relief, insofar as they relate to determining whether the applicant's presence would be detrimental to the national interest.

The burden of proof does not rest with the Minister of Public Safety and Emergency Preparedness (MPSEP) or the CBSA but with the individual applying for Ministerial relief to satisfy the Minister that their presence in Canada would not be detrimental to the national interest and, accordingly, that relief is warranted, notwithstanding the applicant's inadmissibility. Ministerial relief is not meant to review an inadmissibility finding and is a discretionary authority, intended to be exceptional.

While the decision in *Agraira* was made in the context of the former subsection 34(2) of the IRPA, the CBSA is of the view that the principles enunciated by the SCC apply equally to cases under former subsection 35(2) given the analogous Ministerial relief context and wording of the provisions.

ORGANIZATION/HISTORICAL BACKGROUND

Include the short standardized summary paragraph of the organization.

APPLICANT'S IMMIGRATION HISTORY

Ensure that you conduct checks in FOSS, NCMS, GCMS, CPIC and STS beforehand.

This section should succinctly address client's processing through the immigration stream up to the present time:

- *Citizenship or, if stateless, country of last permanent residence;*
- *Date of arrival, route, documents used, if possible;*
- *Authority (if any) used for entry to Canada (e.g. visitor, PR, refugee);*
- *Date of refugee claim, if applicable, and its result;*
- *Date of application for permanent residence, if applicable, and its result;*
- *Date(s) of any interviews with Canadian officials and resultant reports;*
- *Date of section 27/44 report, if applicable, and its result (e.g. admissibility hearing and decision);*

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- *Criminal activity and related dates and information as it pertains to immigration records or enforcement activities (otherwise, include the information only in the "criminal conduct" section);*
- *Any other relevant date and/or application (e.g. PDRRC/PRRA, etc.);*
- *Court proceedings (appeals, judicial reviews, etc.)*

The immigration history should describe the grounds for the applicant's inadmissibility, including the relevant paragraph of IRPA and by whom the applicant was found to be inadmissible (e.g. CIC officer, IRB admissibility hearing, etc).

NAME made an application with submissions for Ministerial relief on Month DD, YYYY
(Attachment).

ELEMENTS CONSIDERED

Information provided by applicant, CIC, CBSA and other relevant sources.

NOTE: Present all facts or factors in an objective manner. Any analysis in response to the arguments made in submissions should be reserved for the 'Assessment' section.

This section should also include the following:

- *Notable inconsistencies and contradictions in the subject's story.*
- *The absence of supporting documentation on the part of the applicant may also be noted.*

If applicable Criminal Conduct

- *Criminal record (if so, what were the charges; length of sentence served; was a pardon received, etc?) or other involvement in criminal activity (if so, what activity; what information supports such claims and is it from a reliable source such as enforcement partners; any explanation as to why there are no charges or convictions?) [CPIC and NCIC checks]*

If applicable CIC/CBSA Officer's Input

The CBSA has reviewed the **CIC/CBSA** officer's report. The officer recommended that **NAME** be granted/denied Ministerial relief. However, the decision on relief rests solely with the MPSEP. While the officer's input has been taken into consideration, it is not binding upon the Minister.

If applicable Prior CBSA Ministerial Relief Recommendations

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The CBSA disclosed a draft Ministerial relief recommendation to [NAME] in [month, year]. The CBSA's recommendation was to [grant/deny] Ministerial relief. That draft was not delivered to the MPSEP for decision. As with any other recommendation, it is in no way binding upon the Minister and does not impinge upon Ministerial discretion. As a result of the disclosure, [NAME] provided additional submissions in [month, year]. These submissions were taken into consideration in the present draft recommendation.

If applicable Prior Decision by the MPSEP

Provide any relevant details regarding previous MR decisions, including whether they were related to the same grounds for inadmissibility as the current application, and any court or policy decisions that may have resulted in the same MR request being re-determined. Ensure that this information is consistent with what, if anything, has been mentioned in the legal test.

ASSESSMENT

This section should provide a concise and clear analysis that unambiguously aligns with the legal test above. Has the applicant demonstrated that his/her presence in Canada would not be detrimental to the national interest? What factors or evidence were particularly compelling, significant or persuasive in supporting this conclusion and how are they linked to national interest or national security and public safety? Were these factors supported by the submissions and/or by reliable evidence? Note if there are exceptional circumstances that might warrant relief.

RECOMMENDATION

As the Minister of Public Safety and Emergency Preparedness, you have the sole authority to grant relief under former subsection 35(2) of IRPA. Based on the above-noted considerations and assessment, the CBSA [] / [] satisfied that the presence of [NAME] in Canada would not be detrimental to the national interest. Therefore, the CBSA recommends that you [] relief.

The CBSA requests that you review the attachments in the context of the Agency's assessment and indicate your approval or denial of [NAME]'s application for Ministerial relief.

If you agree with the CBSA's recommendation to [] , [NAME] will be relieved from inadmissibility under paragraph 35(1)(b) of IRPA.

If you do not agree with the CBSA's recommendation to [] , please provide detailed reasons.

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OR

If you agree with the CBSA's recommendation to [REDACTED], NAME will not be relieved from inadmissibility under paragraph 35(1)(b) of IRPA.

If you do not agree with the CBSA's recommendation to [REDACTED], please provide reasons.

Linda Lizotte-MacPherson
President

Minister's Response

I am satisfied that the presence of NAME in Canada would not be detrimental to the national interest.

I grant relief:

I am not satisfied that the presence of NAME in Canada would not be detrimental to the national interest.

I deny relief:

The Honourable Ralph Goodale, P.C., M.P.

Date

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LIST OF ATTACHMENTS

1. Background information and source documents
2. XXXXX

c.c.: Mr. Malcolm Brown, Deputy Minister
Public Safety Canada

POLICE
INVESTIGATION
REPORT



Agence des services frontaliers du Canada

Canada Border Services Agency

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Pour action

**DEMANDE DE DISPENSE MINISTÉRIELLE
EN VERTU DE L'ANCIEN PARAGRAPHE 35(2) DE
LA LOI SUR L'IMMIGRATION ET LA PROTECTION DES RÉFUGIÉS**
NOM, PRENOM (DDN); IUC: XXXX XXXX

À l'attention du ministre

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OBJET

L'Agence des services frontaliers du Canada (ASFC) vous demande de bien vouloir examiner la présente recommandation ainsi que les documents en annexes et d'indiquer si vous approuvez ou si vous rejetez la demande de dispense ministérielle de **NOM AU COMPLET**.

SYNOPSIS

NOM AU COMPLET est un(e) étranger(e)/réfugié(e) au sens de la Convention interdit(e)/dont il y a des motifs raisonnables de croire qu'il/elle est interdit(e) de territoire au Canada en vertu de l'alinéa 35(1)b) de la *Loi sur l'immigration et la protection des réfugiés* (LIPR) puisqu'il/elle a occupé un poste de rang supérieur au sein d'un gouvernement qui, de l'avis du ministre, se livre ou s'est livré au terrorisme, à des violations graves ou répétées des droits de la personne ou commet ou a commis un génocide, un crime contre l'humanité ou un crime de guerre, en l'occurrence, **X**. Il/Elle a demandé une dispense ministérielle en vertu de l'ancien paragraphe 35(2) de la LIPR.

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L'ASFC recommande que vous ~~accordez/refusez~~ la dispense ministérielle à **NOM AU COMPLET**

CONTEXTE LÉGISLATIF

Dispense ministérielle – *Loi habilitante*

Cette recommandation a été préparée en vertu de l'ancien paragraphe 35(2) de la LIPR et tient compte des directives de la Cour suprême du Canada (CSC) dans l'affaire *Agraira c. Canada (Sécurité publique et Protection civile)*, 2013 CSC 36 (*Agraira*).

La loi applicable est la suivante :

Le paragraphe 35(1) de la LIPR énonce :

(1) Emportent interdiction de territoire pour atteinte aux droits humains ou internationaux les faits suivants :

- a) commettre, hors du Canada, une des infractions visées aux articles 4 à 7 de la *Loi sur les crimes contre l'humanité et les crimes de guerre*;
- b) occuper un poste de rang supérieur — au sens du règlement — au sein d'un gouvernement qui, de l'avis du ministre, se livre ou s'est livré au terrorisme, à des violations graves ou répétées des droits de la personne ou commet ou a commis un génocide, un crime contre l'humanité ou un crime de guerre au sens des paragraphes 6(3) à (5) de la *Loi sur les crimes contre l'humanité et les crimes de guerre*;
- c) être, sauf s'agissant du résident permanent, une personne dont l'entrée ou le séjour au Canada est limité au titre d'une décision, d'une résolution ou d'une mesure d'une organisation internationale d'États ou une association d'États dont le Canada est membre et qui impose des sanctions à l'égard d'un pays contre lequel le Canada a imposé — ou s'est engagé à imposer — des sanctions de concert avec cette organisation ou association.

L'ancien paragraphe 35(2) de la LIPR énonçait :

(2) Les faits visés aux alinéas (1)b) et c) n'emportent pas interdiction de territoire pour le résident permanent ou l'étranger qui convainc le ministre que sa présence au Canada ne serait nullement préjudiciable à l'intérêt national.

L'ancien paragraphe 6(3) de la LIPR énonçait :

(3) Ne peuvent toutefois être déléguées les attributions conférées par les paragraphes 20.1(1) ou 77(1) et la prise de décision au titre des paragraphes 34(2) ou 35(2) ou de l'alinéa 37(2)a).

L'alinéa 16 du *Règlement sur l'immigration et la protection des réfugiés* (RIPR) énonce :

NOM, PRENOM (DDN)

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16. Pour l'application de l'alinéa 35(1)b) de la Loi, occupent un poste de rang supérieur au sein d'une administration les personnes qui, du fait de leurs actuelles ou anciennes fonctions, sont ou étaient en mesure d'influencer sensiblement l'exercice du pouvoir par leur gouvernement ou en tirent ou auraient pu en tirer certains avantages, notamment :

- a) le chef d'État ou le chef du gouvernement;
- b) les membres du cabinet ou du conseil exécutif;
- c) les principaux conseillers des personnes visées aux alinéas a) et b);
- d) les hauts fonctionnaires;
- e) les responsables des forces armées et des services de renseignement ou de sécurité intérieure;
- f) les ambassadeurs et les membres du service diplomatique de haut rang;
- g) les juges.

Dispense ministérielle – critère juridique

Dans l'affaire *Agraira*, la CSC a estimé que les considérations prédominantes dans l'évaluation de l'intérêt national sont la sécurité nationale et la sécurité publique, qui doivent être interprétées dans le contexte du Canada en tant que démocratie parlementaire qui s'engage à protéger les valeurs fondamentales de la Charte et à respecter les obligations internationales du Canada. En outre, la CSC a noté que la dispense ministérielle ne vise pas à être une formule de rechange ou un examen des facteurs d'ordre humanitaire; néanmoins, les caractéristiques personnelles d'un demandeur peuvent être prises en considération dans l'évaluation de la dispense, dans la mesure où ils servent à déterminer si la présence du demandeur serait préjudiciable à l'intérêt national.

Le fardeau de la preuve ne repose pas sur le ministre de la Sécurité publique et de la Protection civile (MSPPC) ou sur l'ASFC, mais sur l'individu présentant une demande de dispense ministérielle pour convaincre le ministre que sa présence au Canada ne serait pas préjudiciable à l'intérêt national et, par conséquent, que la dispense est justifiée, malgré l'interdiction de territoire du demandeur. La dispense ministérielle ne vise pas à réexaminer une conclusion d'interdiction de territoire et constitue un pouvoir discrétionnaire destiné à être exceptionnel.

Bien que la décision dans l'affaire *Agraira* ait été prise dans le contexte de l'ancien paragraphe 34(2) de la LIPR, l'ASFC est d'avis que les principes énoncés par la CSC s'appliquent également aux cas visés par l'ancien paragraphe 35(2) étant donné le contexte analogue de la dispense ministérielle et la formulation des dispositions.

CONTEXTE ORGANISATIONEL / HISTORIQUE

NOM, PRENOM (DDN)

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SECRET avec l'annexe X

Include a paragraph outlining the time when the applicant was a member of the regime. List specific events and dates, so a link can easily be made for the reader. Conversely, if it was a period where there are no reported incidents, it should also be noted.

Limit the background information to a reasonable timeframe before and after the applicant's period of membership

[If applicable] Le [date], le ministre de la Citoyenneté et de l'Immigration a désigné, en vertu de l'alinéa 35(1)b) de la Loi sur l'immigration et la protection des réfugiés, le gouvernement de [pays] entre [date] et [date] comme étant, à son avis, un régime qui s'est livré au terrorisme, à des violations graves ou répétées des droits de la personne ou a commis un génocide, un crime contre l'humanité ou un crime de guerre au sens des paragraphes 6(3) à (5) de la *Loi sur les crimes contre l'humanité et les crimes de guerre*

Standard summary description of the regime. Details on the mandate, nature of the regime, tactics and level of activity today should be included.

Furthermore, if applicable, discuss the Canadian connections. Have any past attacks involved Canadians?

This section should normally be addressed in 2 pages or less.

Please note that where various spellings of the name exist, the version preferred by the Canadian government should be used throughout.

L'annexe 1 contient l'information susmentionnée avec les citations et les documents de référence.

HISTORIQUE D'IMMIGRATION DU DEMANDEUR

Ensure that you conduct checks in FQSS, NCMS, GCMS and STS beforehand.

This section should briefly address client's processing through the immigration stream up to the present time:

- *Citizenship or, if stateless, country of last permanent residence;*
- *Date of arrival, route, documents used, if possible;*
- *Authority (if any) used for entry to Canada (ex. visitor, PR, refugee);*
- *Date of refugee claim, if applicable, and its result;*
- *Date of application for permanent residence, if applicable and its result;*
- *Date of section 27/44 report, if applicable, and its result (ex. admissibility hearing and decision);*
- *Any other relevant date and/or application (ex. PDRRC/PRRA, etc.);*
- *Court proceedings (appeals, judicial reviews, etc.)*

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The Immigration history should describe what the applicant is inadmissible for, the relevant paragraph of IRPA and who found the applicant to be inadmissible (ex. CIC officer, IRB admissibility hearing, etc).

NOM a par la suite fait une demande de dispense ministérielle avec documents à l'appui le JJ MM AAAA (annexe X).

FACTEURS CONSIDÉRÉS

*Information provided by applicant, CIC, CBSA and other relevant sources.
NOTE: Present all facts or factors in an objective manner. Any analysis in response to the arguments made in submissions should be reserved for the 'Assessment' section.*

This section should also include the following:

- Notable inconsistencies and contradictions in the subject's story.
- The absence of supporting documentation on the part of the applicant may also be noted.

[S'il y a lieu] Comportement criminel

- Criminal record (if so, what were the charges; length of sentence served; was a pardon received, etc?) or other involvement in criminal activity (if so, what activity; what information supports such claims and is it from a reliable source such as enforcement partners, any explanation as to why there are no charges or convictions?) [CPIC and NCIC checks]

[S'il y a lieu] Contribution de l'agent de CIC/l'ASFC

L'ASFC a examiné le rapport de l'agent de CIC/de l'ASFC. L'agent a recommandé qu'on accorde/refuse la dispense ministérielle au demandeur. Par contre, la décision d'accorder ou non une dispense ministérielle revient au MSPPC. Bien que la contribution de l'agent ait été prise en considération, elle n'est pas contraignante pour le ministre.

[S'il y a lieu] Recommandations précédentes de l'ASFC relatives à la dispense ministérielle

L'ASFC a divulgué l'ébauche d'une recommandation relative à la dispense ministérielle à NOM en mois année. La recommandation de l'ASFC était d'accorder ou de rejeter la dispense ministérielle. Cette ébauche n'a pas été acheminée au MSPPC aux fins de la prise d'une décision. Comme pour toute autre recommandation, elle n'est aucunement contraignante pour le ministre et n'empiète pas sur le pouvoir discrétionnaire du ministre. Suite à la divulgation, NOM a fourni d'autres observations, en mois année. Ces observations ont été prises en considération dans la présente ébauche de la recommandation.

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[S'il y a lieu] Décision précédente du MSPPC

Provide any relevant details regarding previous MR decisions, including whether they were related to the same grounds for inadmissibility as the current application, and any court or policy decisions that may have resulted in the same MR request being re-determined. Ensure that this information is consistent with what, if anything, has been mentioned in the legal test.

ÉVALUATION

This section should provide a concise and clear analysis that unambiguously aligns with the legal test above. Has the applicant demonstrated that his/her presence in Canada would not be detrimental to the national interest? What factors or evidence were particularly compelling, significant or persuasive in supporting this conclusion and how are they linked to national interest or national security and public safety? Were these factors supported by the submissions and/or by reliable evidence? Note if there are exceptional circumstances that might warrant relief.

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RECOMMANDATION

À titre de ministre de la Sécurité publique et de la Protection civile, vous seul avez le pouvoir d'accorder une dispense ministérielle en vertu de l'ancien paragraphe 35(2) de la LIPR. En fonction des facteurs pris en considération et de l'évaluation mentionnés ci-dessus, l'ASFC est/n'est pas convaincue que la présence de **NOM** au Canada ne serait nullement préjudiciable à l'intérêt national. Par conséquent, l'ASFC recommande que vous accordez/rejetiez la dispense.

L'ASFC vous demande de bien vouloir examiner les pièces jointes dans le contexte de l'évaluation de l'Agence et d'indiquer votre approbation ou votre refus de la demande de dispense ministérielle présentée par **NOM**.

Si vous êtes d'accord avec la recommandation de l'ASFC d'accorder la dispense ministérielle, l'interdiction de territoire en vertu de l'alinéa 35(1)b) de la LIPR de **NOM** sera levée.

Si vous n'êtes pas d'accord avec la recommandation de l'ASFC d'accorder la dispense ministérielle, veuillez fournir des raisons détaillées.

OU

Si vous êtes d'accord avec la recommandation de l'ASFC de refuser la dispense ministérielle, l'interdiction de territoire en vertu de l'alinéa 35(1)b) de la LIPR de **NOM** ne sera pas levée.

Si vous n'êtes pas d'accord avec la recommandation de l'ASFC de refuser la dispense ministérielle, veuillez fournir des raisons.

Luc Portelance
Président

Réponse du ministre

Je suis convaincu que la présence de **NOM au Canada ne serait pas préjudiciable à l'intérêt national.**

J'accorde la dispense :

NOM, PRENOM (DDN)

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SECRET avec l'annexe X

Je ne suis pas convaincu que la présence de NOM au Canada ne serait pas préjudiciable à l'intérêt national.

Je rejette la dispense :

Steven Blaney, P.C., M.P.

Date:

PROTEGE

NOM, PRENOM (DDN)

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SECRET avec l'annexe X

PIÈCES JOINTES

1. Information contextuelle et documents sources
2. XXXXX

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NOM, PRENOM (DDN)

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Canada Border
Services Agency

Agence des services
frontaliers du Canada

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For action

**MINISTERIAL RELIEF APPLICATION PURSUANT TO FORMER
PARAGRAPH 37(2)(a) OF THE IMMIGRATION AND REFUGEE PROTECTION ACT**
LAST NAME, FIRST NAME (DOB); UCI: XXXX-XXXX

For the Minister

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PURPOSE

The Canada Border Services Agency (CBSA) requests that you review the following recommendation, as well as the attached documents, and indicate your approval or denial of the application for Ministerial relief of FULL NAME

SYNOPSIS

FULL NAME is a foreign national/Convention refugee who has been found to be inadmissible or there are reasonable grounds to believe is inadmissible to Canada // pursuant to paragraph 37(1)(a) of the *Immigration and Refugee Protection Act* (IRPA) for being a member of an organization, specifically the NAME OF ORGANIZATION, that is believed on reasonable grounds to be or to have been engaged in activity that is part of a pattern of criminal activity planned and organized by a number of persons acting in concert in furtherance of the commission of an offence punishable under an Act of Parliament by way of indictment, or in furtherance of the commission of an offence outside Canada that, if committed in Canada, would constitute such an offence, or engaging in activity that is part of such a pattern // pursuant to paragraph 37(1)(b) of the *Immigration and Refugee Protection Act* (IRPA) for engaging, in the

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context of transnational crime, in activities such as people smuggling, trafficking in persons or money laundering. [He/She] has applied for Ministerial relief pursuant to former paragraph 37(2)(a) of IRPA.

The CBSA recommends that you deny/grant Ministerial relief to FULL NAME.

LEGISLATIVE BACKGROUND

Ministerial Relief – Enabling Legislation

This recommendation has been prepared under the provisions of the former paragraph 37(2)(a) of IRPA, taking into consideration the guidance of the Supreme Court of Canada (SCC) in *Agraira v. Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36 (*Agraira*).

The applicable legislation is as follows:

Subsection 37(1) of IRPA states:

- (1) A permanent resident or a foreign national is inadmissible on grounds of organized criminality for
- (a) being a member of an organization that is believed on reasonable grounds to be or to have been engaged in activity that is part of a pattern of criminal activity planned and organized by a number of persons acting in concert in furtherance of the commission of an offence punishable under an Act of Parliament by way of indictment, or in furtherance of the commission of an offence outside Canada that, if committed in Canada, would constitute such an offence, or engaging in activity that is part of such a pattern; or
 - (b) engaging, in the context of transnational crime, in activities such as people smuggling, trafficking in persons or money laundering.

Former subsection 37(2) of IRPA stated:

- (2) The following provisions govern subsection (1):
- (a) subsection (1) does not apply in the case of a permanent resident or a foreign national who satisfies the Minister that their presence in Canada would not be detrimental to the national interest; and
 - (b) paragraph (1)(a) does not lead to a determination of inadmissibility by reason only of the fact that the permanent resident or foreign national entered Canada with the assistance of a person who is involved in organized criminal activity.

LAST NAME, FIRST NAME (DOB)

PROTECTED B
SECRET With Attachment

Former subsection 6(3) of IRPA stated:

(3) Despite subsection (2), the Minister may not delegate the power conferred by subsection 20.1(1) or 77(1) or the ability to make determinations under subsection 34(2) or 35(2) or paragraph 37(2)(a).

Ministerial Relief – Legal Test

In *Agraira*, the SCC held that the predominant considerations in assessing national interest are national security and public safety, which ought to be interpreted in the context of Canada as a parliamentary democracy committed to protecting fundamental values of the Charter and meeting Canada's international obligations. In addition, the SCC noted that Ministerial relief is not intended to be an alternative form or a review of humanitarian and compassionate factors; nevertheless, personal factors of an applicant may be considered in an assessment for relief, insofar as they relate to determining whether the applicant's presence would be detrimental to the national interest.

The burden of proof does not rest with the Minister of Public Safety and Emergency Preparedness (MPSEP) or the CBSA but with the individual applying for Ministerial relief to satisfy the Minister that their presence in Canada would not be detrimental to the national interest and, accordingly, that relief is warranted, notwithstanding the applicant's inadmissibility. Ministerial relief is not meant to review an inadmissibility finding and is a discretionary authority, intended to be exceptional.

While the decision in *Agraira* was made in the context of the former subsection 34(2) of IRPA, the CBSA is of the view that the principles enunciated by the SCC apply equally to cases under former paragraph 37(2)(a) given the analogous Ministerial relief context and wording of the provisions.

ORGANIZATION / HISTORICAL BACKGROUND

Include the short standardized summary paragraph of the organization.

APPLICANT'S IMMIGRATION HISTORY

Ensure that you conduct checks in FOSS, NCMS, GCMS, CPIC and STS beforehand.

This section should succinctly address client's processing through the immigration stream up to the present time:

- Citizenship or, if stateless, country of last permanent residence;
- Date of arrival, route, documents used, if possible;

LAST NAME, FIRST NAME (DOB)

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- Authority (if any) used for entry to Canada (e.g. visitor, PR, refugee);
- Date of refugee claim, if applicable, and its result;
- Date of application for permanent residence, if applicable, and its result;
- Date(s) of any interviews with Canadian officials and resultant reports;
- Date of section 27/44 report, if applicable, and its result (e.g. admissibility hearing and decision);
- Criminal activity and related dates and information as it pertains to immigration records or enforcement activities (otherwise, include the information only in the "criminal conduct" section);
- Any other relevant date and/or application (e.g. PDRRC/PRRA, etc.);
- Court proceedings (appeals, judicial reviews, etc.)

The immigration history should describe the grounds for the applicant's inadmissibility, including the relevant paragraph of IRPA and by whom the applicant was found to be inadmissible (e.g. CIC officer, IRB admissibility hearing, etc).

NAME made an application with submissions for Ministerial relief on **Month DD, YYYY** (Attachment).

ELEMENTS CONSIDERED

Information provided by applicant, CIC, CBSA and other relevant sources.

NOTE: Present all facts or factors in an objective manner. Any analysis in response to the arguments made in submissions should be reserved for the 'Assessment' section.

This section should also include the following:

- Notable inconsistencies and contradictions in the subject's story.
- The absence of supporting documentation on the part of the applicant may also be noted.

If applicable] Criminal Conduct

- Criminal record (if so, what were the charges; length of sentence served; was a pardon received, etc?) or other involvement in criminal activity (if so, what activity; what information supports such claims and is it from a reliable source such as enforcement partners; any explanation as to why there are no charges or convictions?) [CPIC and NCIC checks]

If applicable] CIC/CBSA Officer's Input

The CBSA has reviewed the **CIC/CBSA** officer's report. The officer recommended that **NAME** be granted/denied Ministerial relief. However, the decision on relief rests solely with the

LAST NAME, FIRST NAME (DOB)

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MPSEP. While the officer's input has been taken into consideration, it is not binding upon the Minister.

If applicable] Prior CBSA Ministerial Relief Recommendations

The CBSA disclosed a draft Ministerial relief recommendation to NAME in month year. The CBSA's recommendation was to grant/deny Ministerial relief. That draft was not delivered to the MPSEP for decision. As with any other recommendation, it is in no way binding upon the Minister and does not impinge upon Ministerial discretion. As a result of the disclosure, NAME provided additional submissions in month year. These submissions were taken into consideration in the present draft recommendation.

If applicable] Prior Decision by the MPSEP

Provide any relevant details regarding previous MR decisions, including whether they were related to the same grounds for inadmissibility as the current application, and any court or policy decisions that may have resulted in the same MR request being re-determined. Ensure that this information is consistent with what, if anything, has been mentioned in the legal test.

ASSESSMENT

This section should provide a concise and clear analysis that unambiguously aligns with the legal test above. Has the applicant demonstrated that his/her presence in Canada would not be detrimental to the national interest? What factors or evidence were particularly compelling, significant or persuasive in supporting this conclusion and how are they linked to national interest or national security and public safety? Were these factors supported by the submissions and/or by reliable evidence? Note if there are exceptional circumstances that might warrant relief.

RECOMMENDATION

As the Minister of Public Safety and Emergency Preparedness, you have the sole authority to grant relief under former paragraph 37(2)(a) of IRPA. Based on the above-noted considerations and assessment, the CBSA [] / [] satisfied that the presence of NAME in Canada would not be detrimental to the national interest. Therefore, the CBSA recommends that you [] relief.

The CBSA requests that you review the attachments in the context of the Agency's assessment and indicate your approval or denial of NAME's application for Ministerial relief.

LAST NAME, FIRST NAME (DOB)

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If you agree with the CBSA's recommendation to [REDACTED], NAME will be relieved from inadmissibility under paragraph 37(1)(a) // paragraph 37(1)(b) of IRPA.

If you do not agree with the CBSA's recommendation to [REDACTED], please provide detailed reasons.

OR

If you agree with the CBSA's recommendation to [REDACTED], NAME will not be relieved from inadmissibility under paragraph 37(1)(a) // paragraph 37(1)(b) of IRPA.

If you do not agree with the CBSA's recommendation to [REDACTED], please provide reasons.

Luc Portelance
President

LAST NAME, FIRST NAME (DOB)

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Minister's Response

I am satisfied that the presence of NAME in Canada would not be detrimental to the national interest.

I grant relief:

I am not satisfied that the presence of NAME in Canada would not be detrimental to the national interest.

I deny relief:

Steven Blaney, P.C., M.P.

Date:

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LIST OF ATTACHMENTS

1. Background information and source documents
2. XXXXX

DRAFT

LAST NAME, FIRST NAME (DOB)

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Canada Border
Services Agency

Agence des services
frontaliers du Canada

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SECRET with Attachment X

For action

**MINISTERIAL RELIEF APPLICATION PURSUANT TO SUBSECTION 42.1(1) OF
THE IMMIGRATION AND REFUGEE PROTECTION ACT
LAST NAME, FIRST NAME (DOB); UCI: XXXX-XXXX**

For the Minister

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PURPOSE

The Canada Border Services Agency (CBSA) requests that you review the following recommendation, as well as the attached documents, and indicate your approval or denial of the application for Ministerial relief of FULL NAME.

SYNOPSIS

FULL NAME is a foreign national/Convention refugee who has been found to be inadmissible or there are reasonable grounds to believe is inadmissible to Canada pursuant to paragraph 34(1)(f) of the *Immigration and Refugee Protection Act* (IRPA) for being a member of an organization that there are reasonable grounds to believe engages, has engaged or will engage in acts of espionage, subversion or terrorism, specifically the NAME OF ORGANIZATION. He/She has applied for Ministerial relief pursuant to subsection 42.1(1) of IRPA.

The CBSA recommends that you deny/grant Ministerial relief to FULL NAME.

PROTECTED B
SECRET with Attachment 

LEGISLATIVE BACKGROUND

Ministerial Relief – Enabling Legislation

The applicable legislation is as follows:

Subsection 34(1) of IRPA states:

- (1) A permanent resident or a foreign national is inadmissible on security grounds for
- (a) engaging in an act of espionage that is against Canada or that is contrary to Canada's interests;
 - (b) engaging in or instigating the subversion by force of any government;
 - (b.1) engaging in an act of subversion against a democratic government, institution or process as they are understood in Canada;
 - (c) engaging in terrorism;
 - (d) being a danger to the security of Canada;
 - (e) engaging in acts of violence that would or might endanger the lives or safety of persons in Canada; or
 - (f) being a member of an organization that there are reasonable grounds to believe engages, has engaged or will engage in acts referred to in paragraph (a), (b), (b.1) or (c).

Subsections 42.1(1) and (3) of IRPA state:

- (1) The Minister may, on application by a foreign national, declare that the matters referred to in section 34, paragraphs 35(1)(b) and (c) and subsection 37(1) do not constitute inadmissibility in respect of the foreign national if they satisfy the Minister that it is not contrary to the national interest.
- (3) In determining whether to make a declaration, the Minister may only take into account national security and public safety considerations, but, in his or her analysis, is not limited to considering the danger that the foreign national presents to the public or the security of Canada.

PROTECTED B
SECRET with Attachment 

Ministerial Relief – Legal Test

Pursuant to subsection 42.1(1) of the *Immigration and Refugee Protection Act*, the MPSEP may, on application by a foreign national, declare that the matters referred to in section 34, paragraphs 35(1) (b) and (c) and subsection 37(1) do not constitute inadmissibility in respect of the foreign national, if they satisfy the Minister that it is not contrary to the national interest. In determining whether to make a declaration of relief, the MPSEP, in his assessment of the national interest, may only take into account national security and public safety considerations, but, in his analysis, is not limited to considering the danger that the foreign national presents to the public or the security of Canada.

In line with the principles outlined by the SCC in *Agraira*, considerations of national security and public safety ought to be interpreted in the context of Canada as a parliamentary democracy committed to protecting the fundamental values of the *Canadian Charter of Rights and Freedoms* and meeting Canada's international obligations. Ministerial relief is not intended to be an alternate form or a review of humanitarian and compassionate factors; nonetheless, personal factors of an applicant may be relevant to an assessment for relief, insofar as they relate to national security and public safety considerations.

In satisfying the Minister that a declaration of relief is not contrary to the national interest, the burden of proof rests with the individual applying for relief, rather than with the MPSEP to demonstrate otherwise. Ministerial relief is not meant to review an inadmissibility finding and is a discretionary authority, intended to be exceptional.

ORGANIZATION / HISTORICAL BACKGROUND

Include the short standardized summary paragraph of the organization.

APPLICANT'S IMMIGRATION HISTORY

Ensure that you conduct checks in FOSS, NCMS, GCMS, CPIC and STS beforehand.

This section should succinctly address client's processing through the immigration stream up to the present time:

- *Citizenship or, if stateless, country of last permanent residence;*
- *Date of arrival, route, documents used, if possible;*
- *Authority (if any) used for entry to Canada (e.g. visitor, PR, refugee);*
- *Date of refugee claim, if applicable, and its result;*
- *Date of application for permanent residence, if applicable, and its result;*
- *Date(s) of any interviews with Canadian officials and resultant reports;*

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- Date of section 27/44 report, if applicable, and its result (e.g. admissibility hearing and decision);
- Criminal activity and related dates and information as it pertains to immigration records or enforcement activities (otherwise, include the information only in the "criminal conduct" section);
- Any other relevant date and/or application (e.g. PDRRC/PRRA, etc.);
- Court proceedings (appeals, judicial reviews, etc.)

The immigration history should describe the grounds for the applicant's inadmissibility, including the relevant paragraph of IRPA and by whom the applicant was found to be inadmissible (e.g. CIC officer, IRB admissibility hearing, etc).

[NAME] made an application with submissions for Ministerial relief on **Month DD, YYYY** (Attachment).

ELEMENTS CONSIDERED

Information provided by applicant, CIC, CBSA and other relevant sources.

NOTE: Present all facts or factors in an objective manner. Any analysis in response to the arguments made in submissions should be reserved for the 'Assessment' section.

This section should also include the following:

- Notable inconsistencies and contradictions in the subject's story.
- The absence of supporting documentation on the part of the applicant may also be noted.

If applicable] Criminal Conduct

- Criminal record (if so, what were the charges; length of sentence served; was a pardon received, etc?) or other involvement in criminal activity (if so, what activity; what information supports such claims and is it from a reliable source such as enforcement partners; any explanation as to why there are no charges or convictions?) [CPIC and NCIC checks]

If applicable] IRCC/CBSA Officer's Input

The CBSA has reviewed the **IRCC/CBSA** officer's report. The officer recommended that **[NAME]** be granted/denied Ministerial relief. However, the decision on relief rests solely with the MPSEP. While the officer's input has been taken into consideration, it is not binding upon the Minister.

If applicable] Prior CBSA Ministerial Relief Recommendations

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SECRET with Attachment 

The CBSA disclosed a draft Ministerial relief recommendation to NAME in month year. The CBSA's recommendation was to grant/deny Ministerial relief. That draft was not delivered to the MPSEP for decision. As with any other recommendation, it is in no way binding upon the Minister and does not impinge upon Ministerial discretion. As a result of the disclosure, NAME provided additional submissions in month year. These submissions were taken into consideration in the present draft recommendation.

If applicable: Prior Decision by the MPSEP

Provide any relevant details regarding previous MR decisions, including whether they were related to the same grounds for inadmissibility as the current application, and any court or policy decisions that may have resulted in the same MR request being re-determined. Ensure that this information is consistent with what, if anything, has been mentioned in the legal test.

ASSESSMENT

This section should provide a concise and clear analysis that unambiguously aligns with the legal test above. Has the applicant demonstrated that his/her presence in Canada would not be detrimental to the national interest? What factors or evidence were particularly compelling, significant or persuasive in supporting this conclusion and how are they linked to national interest or national security and public safety? Were these factors supported by the submissions and/or by reliable evidence? Note if there are exceptional circumstances that might warrant relief.

RECOMMENDATION

As the Minister of Public Safety and Emergency Preparedness, you have the sole authority to grant relief under subsection 42.1(1) of IRPA. Based on the above-noted considerations and assessment, the CBSA [] / [] satisfied that the presence of NAME in Canada would not be detrimental to the national interest. Therefore, the CBSA recommends that you [] relief.

The CBSA requests that you review the attachments in the context of the Agency's assessment and indicate your approval or denial of NAME's application for Ministerial relief.

If you agree with the CBSA's recommendation to [REDACTED], NAME will be relieved from inadmissibility under paragraph 34(1)(f) of IRPA.

If you do not agree with the CBSA's recommendation to [REDACTED], please provide detailed reasons.

OR

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If you agree with the CBSA's recommendation to [REDACTED], NAME will not be relieved from inadmissibility under paragraph 34(1)(f) of IRPA.

If you do not agree with the CBSA's recommendation to [REDACTED], please provide reasons.

John Ossowski
President

DRAE

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Minister's Response

I am satisfied that making a declaration of relief is not contrary to the national interest.

I grant relief:

I am not satisfied that making a declaration of relief is not contrary to the national interest.

I deny relief:

The Honourable Ralph Goodale, P.C., M.P.

Date

**PROTECTED B
SECRET with Attachment X**

ATTACHMENTS

1. Background information and source documents
2. XXXXX

c.c.: Mr. Malcolm Brown, Deputy Minister
Public Safety Canada

DRAFT



Canada Border
Services Agency

Agence des services
frontaliers du Canada

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SECRET with Attachment

For action

**MINISTERIAL RELIEF APPLICATION PURSUANT TO SUBSECTION 42.1 (1) OF
THE IMMIGRATION AND REFUGEE PROTECTION ACT**
LAST NAME, FIRST NAME (DOB); UCI: XXXX-XXXX

For the Minister

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PURPOSE

The Canada Border Services Agency (CBSA) requests that you review the following recommendation, as well as the documents submitted, and indicate your approval or denial of the application for Ministerial relief of **FULL NAME**.

SYNOPSIS

FULL NAME is a foreign national/Convention refugee who has been found to be inadmissible or there are reasonable grounds to believe is inadmissible to Canada pursuant to paragraph 35(1)(b) of the *Immigration and Refugee Protection Act* (IRPA) for being a prescribed senior official in the service of a government that, in the opinion of the Minister, engages or has engaged in terrorism, systematic or gross human rights violations, or genocide, a war crime or a crime against humanity, specifically the **NAME OF REGIME or ORGANIZATION**. He/She has applied for Ministerial relief pursuant to subsection 42.1(1) of IRPA.

The CBSA recommends that you **deny/grant** Ministerial relief to **FULL NAME**.

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SECRET with Attachment 

LEGISLATIVE BACKGROUND

Ministerial Relief – Enabling Legislation

The applicable legislation is as follows:

Subsection 35(1) of the IRPA states:

(1) A permanent resident or a foreign national is inadmissible on grounds of violating human or international rights for

(a) committing an act outside Canada that constitutes an offence referred to in sections 4 to 7 of the *Crimes against Humanity and War Crimes Act*;

(b) being a prescribed senior official in the service of a government that, in the opinion of the Minister, engages or has engaged in terrorism, systematic or gross human rights violations, or genocide, a war crime or a crime against humanity within the meaning of subsections 6(3) to (5) of the *Crimes Against Humanity and War Crimes Act*; or

(c) being a person, other than a permanent resident, whose entry into or stay in Canada is restricted pursuant to a decision, resolution or measure of an international organization of states or association of states, of which Canada is a member, that imposes sanctions on a country against which Canada has imposed or has agreed to impose sanctions in concert with that organization or association.

(d) being a person, other than a permanent resident, who is currently the subject of an order or regulation made under section 4 of the *Special Economic Measures Act* on the grounds that any of the circumstances described in paragraph 4(1.1)(c) or (d) of that Act has occurred; or

(e) being a person, other than a permanent resident, who is currently the subject of an order or regulation made under section 4 of the *Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)*.

Subsections 42.1(1) and (3) of IRPA state:

(1) The Minister may, on application by a foreign national, declare that the matters referred to in section 34, paragraphs 35(1)(b) and (c) and subsection 37(1) do not constitute inadmissibility in respect of the foreign national if they satisfy the Minister that it is not contrary to the national interest.

(3) In determining whether to make a declaration, the Minister may only take into account national security and public safety considerations, but, in his or her analysis, is not limited to considering the danger that the foreign national presents to the public or the security of Canada.

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Ministerial Relief – Legal Test

Pursuant to subsection 42.1(1) of the *Immigration and Refugee Protection Act*, the MPSEP may, on application by a foreign national, declare that the matters referred to in section 34, paragraphs 35(1) (b) and (c) and subsection 37(1) do not constitute inadmissibility in respect of the foreign national, if they satisfy the Minister that it is not contrary to the national interest. In determining whether to make a declaration of relief, the MPSEP, in his assessment of the national interest, may only take into account national security and public safety considerations, but, in his analysis, is not limited to considering the danger that the foreign national presents to the public or the security of Canada.

In line with the principles outlined by the SCC in *Agraira*, considerations of national security and public safety ought to be interpreted in the context of Canada as a parliamentary democracy committed to protecting the fundamental values of the *Canadian Charter of Rights and Freedoms* and meeting Canada's international obligations. Ministerial relief is not intended to be an alternate form or a review of humanitarian and compassionate factors; nonetheless, personal factors of an applicant may be relevant to an assessment for relief, insofar as they relate to national security and public safety considerations.

In satisfying the Minister that a declaration of relief is not contrary to the national interest, the burden of proof rests with the individual applying for relief, rather than with the MPSEP to demonstrate otherwise. Ministerial relief is not meant to review an inadmissibility finding and is a discretionary authority, intended to be exceptional.

ORGANIZATION / HISTORICAL BACKGROUND

Include the short standardized summary paragraph of the organization.

APPLICANT'S IMMIGRATION HISTORY

Ensure that you conduct checks in FOSS, NCMS, GCMS, CPIC and STS beforehand.

This section should succinctly address client's processing through the immigration stream up to the present time:

- *Citizenship or, if stateless, country of last permanent residence;*
- *Date of arrival, route, documents used, if possible;*
- *Authority (if any) used for entry to Canada (e.g. visitor, PR, refugee);*
- *Date of refugee claim, if applicable, and its result;*
- *Date of application for permanent residence, if applicable, and its result;*
- *Date(s) of any interviews with Canadian officials and resultant reports;*

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- Date of section 27/44 report, if applicable, and its result (e.g. admissibility hearing and decision);
- Criminal activity and related dates and information as it pertains to immigration records or enforcement activities (otherwise, include the information only in the "criminal conduct" section);
- Any other relevant date and/or application (e.g. PDRRC/PRRA, etc.);
- Court proceedings (appeals, judicial reviews, etc.)

The immigration history should describe the grounds for the applicant's inadmissibility, including the relevant paragraph of IRPA and by whom the applicant was found to be inadmissible (e.g. CIC officer, IRB admissibility hearing, etc).

NAME made an application with submissions for Ministerial relief on Month DD, YYYY (Attachment).

ELEMENTS CONSIDERED

Information provided by applicant, CIC, CBSA and other relevant sources.

NOTE: Present all facts or factors in an objective manner. Any analysis in response to the arguments made in submissions should be reserved for the 'Assessment' section.

This section should also include the following:

- Notable inconsistencies and contradictions in the subject's story.
- The absence of supporting documentation on the part of the applicant may also be noted.

[If applicable] Criminal Conduct

- Criminal record (if so, what were the charges; length of sentence served; was a pardon received, etc?) or other involvement in criminal activity (if so, what activity; what information supports such claims and is it from a reliable source such as enforcement partners; any explanation as to why there are no charges or convictions?) [CPIC and NCIC checks]

[If applicable] CIC/CBSA Officer's Input

The CBSA has reviewed the CIC/CBSA officer's report. The officer recommended that **NAME** be granted/denied Ministerial relief. However, the decision on relief rests solely with the MPSEP. While the officer's input has been taken into consideration, it is not binding upon the Minister.

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SECRET with Attachment X

If applicable Prior CBSA Ministerial Relief Recommendations

The CBSA disclosed a draft Ministerial relief recommendation to [NAME] in [month, year]. The CBSA's recommendation was to [grant/deny] Ministerial relief. That draft was not delivered to the MPSEP for decision. As with any other recommendation, it is in no way binding upon the Minister and does not impinge upon Ministerial discretion. As a result of the disclosure, [NAME] provided additional submissions in [month, year]. These submissions were taken into consideration in the present draft recommendation.

If applicable Prior Decision by the MPSEP

Provide any relevant details regarding previous MR decisions, including whether they were related to the same grounds for inadmissibility as the current application, and any court or policy decisions that may have resulted in the same MR request being re-determined. Ensure that this information is consistent with what, if anything, has been mentioned in the legal test.

ASSESSMENT

This section should provide a concise and clear analysis that unambiguously aligns with the legal test above. Has the applicant demonstrated that his/her presence in Canada would not be detrimental to the national interest? What factors or evidence were particularly compelling, significant or persuasive in supporting this conclusion and how are they linked to national interest or national security and public safety? Were these factors supported by the submissions and/or by reliable evidence? Note if there are exceptional circumstances that might warrant relief.

RECOMMENDATION

As the Minister of Public Safety and Emergency Preparedness, you have the sole authority to grant relief under subsection 42.1(1) of IRPA. Based on the above-noted considerations and assessment, the CBSA [] / [] satisfied that the presence of [NAME] in Canada would not be detrimental to the national interest. Therefore, the CBSA recommends that you [] relief.

The CBSA requests that you review the attachments in the context of the Agency's assessment and indicate your approval or denial of [NAME]'s application for Ministerial relief.

If you agree with the CBSA's recommendation to [], [NAME] will be relieved from inadmissibility under paragraph 35(1)(b) of IRPA.

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If you do not agree with the CBSA's recommendation to [REDACTED], please provide detailed reasons.

OR

If you agree with the CBSA's recommendation to [REDACTED], NAME will not be relieved from inadmissibility under paragraph 35(1)(b) of IRPA .

If you do not agree with the CBSA's recommendation to [REDACTED], please provide reasons.

John Ossowski
President

Minister's Response

I am satisfied that making a declaration of relief is not contrary to the national interest.

I grant relief:

I am not satisfied that making a declaration of relief is not contrary to the national interest.

I deny relief:

The Honourable Ralph Goodale, P.C., M.P.

Date

**PROTECTED B
SECRET with Attachment X**

LIST OF ATTACHMENTS

1. Background information and source documents
2. XXXXX

c.c.: Mr. Malcolm Brown, Deputy Minister
Public Safety Canada

DRAFT

LAST NAME, FIRST NAME (DOB)

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000376

Explanatory Note

Attention: Routing Slip Signatories

This file contains a final Ministerial relief recommendation for decision by the Minister that has been prepared for your review and endorsement. For procedural fairness purposes, the applicant was given an opportunity to respond to the concerns of the CBSA by providing additional submissions. In this case, the applicant has provided additional submissions.

In order to facilitate your review of the recommendation, a tracked changes copy of the recommendation to the Minister is attached to this note, highlighting any alterations made to the document post-disclosure.

We ask that, following approval by the President of the recommendation and prior to forwarding it to the Minister for decision, the tracked changes copy and this note be destroyed in a manner consistent with CBSA security protocols.

Please feel free to contact me if you have any questions or concerns.

Richard St Marseille
A/Director | Directeur p.i.
Policy Division | Division des politiques
Enforcement and Intelligence Programs Directorate |
Direction des programmes d'exécution de la loi et du renseignement
Programs Branch | Direction générale des programmes
Richard.StMarseille@cbsa-asfc.gc.ca
Telephone | Téléphone 613- 954-3923
Facsimile | Télécopieur 613-946-5983

Explanatory Note

Attention: Routing Slip Signatories

This file contains a final Ministerial relief recommendation for decision by the Minister that has been prepared for your review and endorsement. For procedural fairness purposes, the applicant was given an opportunity to respond to the concerns of the CBSA by providing additional submissions. In this case, the applicant has not provided additional submissions.

In order to facilitate your review of the recommendation, a tracked changes copy of the recommendation to the Minister is attached to this note, highlighting any alterations made to the document post-disclosure. Given that no new submissions were received, minimal changes were made to the document to capture necessary updates.

We ask that, following approval by the President of the recommendation and prior to forwarding it to the Minister for decision, the tracked changes copy and this note be destroyed in a manner consistent with CBSA security protocols.

Please feel free to contact me if you have any questions or concerns.

Richard St Marseille
A/Director | Directeur p.i
Policy Division | Division des politiques
Enforcement and Intelligence Programs Directorate |
Direction des programmes d'exécution de la loi et du renseignement
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Canada Border
Services Agency

Agence des services
frontaliers du Canada

PROTECTED/SECRET

Date

To: Ms. Karen Foti
Canadian Security Intelligence Service

From: Full Name
Senior Program Advisor
Ministerial Relief Unit
Canada Border Services Agency
613-XXX-XXXX

Priority Level: Regular/Urgent

Dear Ms. Foti,

Please find attached a copy of the draft Ministerial relief recommendation and other supporting documents that will be released in response to Full Name's request for Ministerial relief pursuant to subsection 34(2) of the *Immigration and Refugee Protection Act*.

Prior to disclosing the draft recommendation to the client, we would ask that you review the following documents to ensure that classified information is not released. The documents included are:

- 1.
- 2.

[If required] Please note that the enclosed redacted Security Brief, CIC Interview notes and/or CIC Memorandum were previously redacted/disclosed in year.

We would greatly appreciate it if the redactions could be provided to us by Date.

Should there be information that CSIS deems as classified, we request that you redact the information in black, so that the client knows there is information to which they are not privy.

Thank you for your continued support in the Ministerial relief process. Please do not hesitate to contact me if you have any questions or if the requested timeframe cannot be met.

Sincerely,

Full Name

Canada